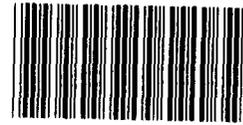


November 1992

# MASS TRANSIT

## Information on Federal Participation in Transit Benefit Programs



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United States  
General Accounting Office  
Washington, D.C. 20548

Resources, Community, and  
Economic Development Division

B-250004

November 13, 1992

The Honorable Dennis DeConcini  
Chairman  
The Honorable Pete V. Domenici  
Ranking Minority Member  
Subcommittee on Treasury, Postal Service and  
General Government  
Committee on Appropriations  
United States Senate

The Honorable Edward R. Roybal  
Chairman  
The Honorable Frank R. Wolf  
Ranking Minority Member  
Subcommittee on Treasury, Postal Service  
and General Government  
Committee on Appropriations  
House of Representatives

The Honorable Barbara A. Mikulski  
United States Senate

Section 629(a) of the Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101-509), enacted in November 1990, enables federal agencies to participate in state or local government programs that encourage employees to use public transportation. According to the act, such programs may involve the sale of discounted passes or other incentives that reduce the cost to the employee of using public transportation. Section 629(d) of the act requires the General Accounting Office to conduct a study and submit a report by June 30, 1993, on the implementation of the programs under section 629(a), including information on participating agencies and employees and the rates of pay of participating employees.

Our objectives in reviewing the implementation of these programs are to assess (1) the extent of federal agency and employee participation in state or local transit benefit programs, including the factors contributing to federal agencies' and employees' decisions to participate or not participate, and the rates of pay of participating employees; (2) the costs of federal agency and employee participation in state or local programs and the way in which this participation is being managed and

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implemented; and (3) the extent to which the legislation has been successful in encouraging the use of public transportation.

This interim report provides information on federal agency and employee participation in transit benefit programs (including, for selected federal agencies, the factors contributing to agencies' participation decisions and the rates of pay of participating employees); estimates the costs of federal participation; and provides information on management and internal controls. This report also identifies factors that can influence the success of employee transit benefits in encouraging the use of public transportation. Our final report, to be issued in June 1993, will provide more comprehensive information on these issues and will include the results of surveys that will allow us to evaluate the factors that contribute to employee commuting choices and to assess whether federal agency and employee participation in transit benefit programs has encouraged the use of public transportation.

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## Results in Brief

As of July 1, 1992, 53 executive, legislative, and independent agencies and organizations, including three cabinet departments, were providing employee transit benefits to approximately 13,900 employees in the Washington, D.C., metropolitan area, according to the Washington Metropolitan Area Transit Authority (WMATA) (see app. II). In addition, approximately 20 agencies and organizations were beginning to participate in transit pass programs established by state and local governments in cities such as Atlanta, Denver, New York, and Seattle. However, data were not readily available to estimate accurately the numbers of participating federal employees in those cities.

Federal agencies may choose whether to participate in state or local transit benefit programs. The Congress did not appropriate additional funding for these benefits; instead, federal agencies that decide to offer benefits are expected to absorb the costs from within their existing budgets. Participating federal agencies we visited generally stated that providing a benefit that would enhance employee recruitment, morale, and retention at a reasonable cost to the agency was the major contributing factor in the decision to participate in a transit benefit program. Agencies that declined to participate cited as the principal reason their inability to absorb the costs of providing benefits within their current budgets.

At three federal agencies we found that the participation rate of employees at lower-income levels—those earning less than \$22,300 a year—was

nearly four times as great as that of employees at higher-income levels—those earning \$90,000 a year or more. However, we noted that the differences in the participation levels of employees at rates of pay between these two levels were not as great. We will examine differences in participation by pay more closely in our final report.

The cost to federal agencies of participating in transit benefit programs in the Washington, D.C., metropolitan area is currently about \$3.5 million a year. This amount does not include the cost of benefits provided by regional offices outside Washington, D.C. This cost will increase above current levels if (1) additional agencies participate in programs, (2) more employees choose to receive transit benefits, or (3) federal agencies increase employee benefit levels under recently enacted legislation raising the tax-free benefit level from \$21 to \$60 a month. The agencies we visited had developed internal controls for their programs; we will evaluate these internal controls in our final report.

Many factors affect whether an employee uses public transportation for commuting: The availability of transit benefits can be one of them. Other factors can include the cost and accessibility of transit and the cost and availability of parking, including whether an employer provides free or subsidized parking. Working conditions and schedules, convenience, safety, and other considerations affect commuting choices. Because data on the commuting patterns of federal employees are quite limited, our final report will present the results of a survey of federal employees to assess the factors that contribute to employee commuting choices and to assess how federal participation in state or local transit benefit programs may have affected those choices. In addition, we will present the results of a survey of federal agencies to assess the extent of participation, the factors influencing participation, and the characteristics of participating employees. Finally, we will include the results of audit work in several cities on implementation of transit benefits outside of Washington, D.C. We believe this information will be useful to the Congress in deciding whether transit benefits should be reauthorized and, if so, what form they should take.

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## Background

The Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101-509), section 629(a), permitted federal agencies to participate in state or local government-established programs that encourage employees to use public transportation. Such programs may involve the sale of discounted passes and other incentives that reduce the

cost to the employee of using public transportation. Under Internal Revenue Code provisions resulting from the Tax Reform Act of 1984, employer-provided transit benefits are taxable to the employee, but only if they exceed \$21 a month, while employer-provided parking is not taxable. In October 1992 the Congress approved legislation (P.L. 102-486), effective January 1993, that changes the tax treatment of employer-provided transportation benefits by increasing the amount of tax-free public transportation benefits an employer can provide to \$60 a month and by taxing employer-provided parking benefits to the extent that they exceed \$155 a month. (These tax treatments are discussed further in app. III.)

For federal agencies in the Washington, D.C., area, the primary state or local government program in which they participate is the Metropool program sponsored by WMATA. WMATA is a regional transit authority created by law under an interstate compact between the District of Columbia, the state of Maryland, and the Commonwealth of Virginia. The Metropool program is designed to encourage the use of public transportation among federal and private sector employees by (1) making fare media conveniently available to employees at their workplaces and (2) giving employers the opportunity to reduce the cost of using transit for their employees.

Federal agencies located in Montgomery County, Maryland, a suburb of Washington, D.C., have also participated in the Fare-Share program sponsored by the Montgomery County Department of Transportation. The Fare-Share program was designed to reduce traffic congestion by providing fare media discounted by both the county and the employer for resale to the employee. Before the passage of legislation authorizing federal agency participation, Montgomery County provided both the employer's and the local government's subsidy for federal employee participants. However, because of budgetary constraints, Montgomery County no longer provides fare media discounts as part of the program. Federal agencies have also participated in the Denver Regional Transportation District's Eco-Pass program, which uses "group insurance" pricing to charge employers on the basis of the daily transit ridership in the area where the participating agency or employer is located.<sup>1</sup>

Under state and local programs like Metropool, Fare-Share, and Eco-Pass, federal agencies act as outlets for distributing fare media to federal employees. According to WMATA, making fare media available to employees

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<sup>1</sup>The Eco-Pass program is discussed in greater detail in our report Mass Transit: Effects of Tax Changes on Commuter Behavior (GAO/RCED-92-243, Sept. 8, 1992).

at their workplaces induces them to commute to and from work on public transit. However, the Metropool program does not offer any discount to federal agencies as the Fare-Share program did, nor does it obligate federal agencies to provide free or reduced-priced fare media.

## Extent of Federal Agency and Employee Participation

As of July 1, 1992, according to WMATA, 53 executive, legislative, and independent agencies and organizations based in Washington, D.C., were providing employee transit benefits.<sup>2</sup> In the executive branch, participating agencies included 3 of the 14 cabinet-level departments, 30 independent agencies and government corporations, and 11 federal boards or commissions. The staff of two bilateral organizations and one quasi-official agency, as well as the residence staff of the White House, also participated. Other participants included the Congressional Budget Office, one of the nine legislative branch agencies; the staff of the U.S. Senate; and personnel employed by three special courts—the U.S. Court of Military Appeals, the U.S. Court of Veterans' Appeals, and the U.S. Tax Court.

WMATA estimates that, of the approximately 38,000 people employed by federal agencies and organizations in the Washington metropolitan area that offer employee transit benefits, around 13,900—about 37 percent—receive the benefit. According to WMATA and the Metropolitan Washington Council of Governments, no data exist on the number of federal employees who take transit versus other modes. (App. II lists participating Washington-area federal agencies and includes WMATA's estimates of the approximate numbers both of total employees in these agencies and of employees who receive transit benefits.)

While participation to date has occurred mainly in the Washington metropolitan area, agencies were beginning to participate in programs in other metropolitan areas. According to local and regional transit authorities in 21 major metropolitan areas, on July 1, 1992, 20 federal agencies offered employee benefits in 15 metropolitan areas. However, because these programs were just beginning, data were not readily available to estimate accurately the numbers of participating employees.

Our final report will include a survey of federal agencies to determine the extent of federal agency and employee participation in the nation's largest 25 metropolitan areas.

<sup>2</sup>We are using data from WMATA for this report because they are the only data currently available from a central source. For our final report we will collect comprehensive data directly from federal agencies. We did not independently verify WMATA's figures.

## Factors Influencing Agency Participation Decisions

According to officials at agencies participating in state or local transit benefit programs, the major reason for providing benefits was to enhance employee recruitment, morale, and retention at a reasonable cost. Officials at participating agencies also attributed agency participation to their support for the goal of increasing use of public transportation. This was a principal motivation at the Department of Transportation (DOT), the National Transportation Safety Board, and the Department of Energy (DOE), agencies with the goals of fostering efficient, safe, and energy-saving transportation systems.

In some cases federal agency participation occurred in the larger context of traffic mitigation and clean air concerns. In Maryland two federal agencies entered into agreements with the Montgomery County government to implement a package of traffic mitigation measures—including providing transit benefits to their employees—as a condition of their locating in this densely populated and congested Washington, D.C., suburb. The Denver Eco-Pass program provided discounted transit passes to federal and other employers as part of a comprehensive air quality improvement program.

Agencies that declined to participate in state or local programs cited a lack of funds as the principal factor precluding their participation. Officials at the Department of State and the Federal Maritime Commission told us that they were considering participation but could not absorb the cost of providing benefits within their current budgets. In its publication USDA News, the Office of Public Affairs, U.S. Department of Agriculture, stated that the Department would not participate because funds were not available. WMATA contacted a number of Washington-based federal agencies to encourage their participation. According to WMATA's records, several agencies declined because they lacked available funds, including ACTION, the Department of Education, the Federal Housing Finance Board, the National Capital Planning Commission, and the Occupational Safety and Health Review Commission.

Some agencies may not participate because some or many of their employees are excluded by the authorizing legislation. Section 629(c) of the Treasury, Postal Service and General Government Appropriations Act of 1991 states that for determining eligible employees, "employee" shall mean an employee as defined under 5 U.S.C. 2105 and shall also include an employee of any legislative or judicial agency. This statute defines "employees" as persons appointed to the civil service, persons employed by nonappropriated fund exchange activities of the uniformed services,

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and others. This definition excludes Postal Service and U.S. Postal Rate Commission employees. It also results in the exclusion of active-duty military personnel in the Department of Defense (DOD) and other agencies.

The exclusion of military personnel affected both civilian and military participation at DOD. DOD, the nation's largest federal employer, stated that it supports the use of public transportation and considered participating. Although the Department reviewed several issues, including the exclusion of military personnel, DOD decided in October 1992 not to participate because of other fiscal priorities and the administrative costs of providing employee transit benefits. DOT officials told us that the authorizing legislation also excluded uniformed personnel in the U.S. Coast Guard, a DOT agency. However, section 44 of the subsequently enacted Coast Guard Authorization Act of 1991 (P.L. 102-241) allows uniformed Coast Guard personnel to receive transit benefits. Accordingly, DOT offers transit benefits to all of its Washington, D.C., headquarters employees.

Although U.S. Postal Rate Commission employees are also not included in the authorizing legislation's definition of "employees," the Commission has been providing benefits since January 1992. According to an official in the agency's Office of General Counsel, the Commission is not a federal agency and its employees are not federal employees as defined under 5 U.S.C. 2105. The official stated, however, that the Commission has the statutory authority to provide transit passes under 39 U.S.C. 3604(c), which allows the Commission to obtain such supplies as may be necessary to permit it to carry out its functions.

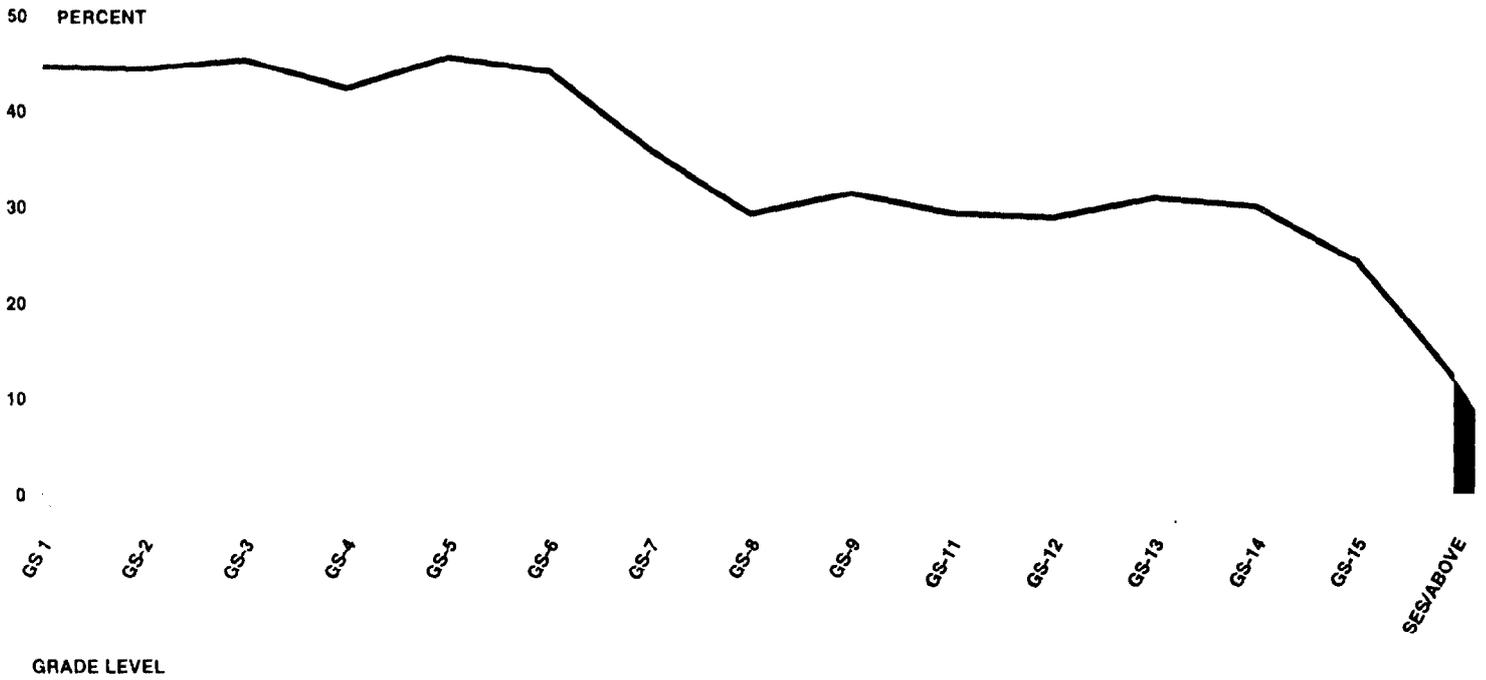
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## Rates of Pay of Participating Employees

We reviewed the rates of pay of employees receiving transit benefits in three of the larger federal agencies that offer benefits—DOT, DOE, and the National Aeronautics and Space Administration (NASA). These three agencies provide benefits to over 5,500 people, accounting for around 40 percent of the nearly 13,900 federal employees in Washington, D.C., who receive transit benefits.

Figure 1 shows that, among employees at DOT, DOE, and NASA, lower-salaried employees had the highest levels of participation. Between 42 and 45 percent of the employees at the GS-1 through GS-6 grade levels—those generally earning less than \$22,300 a year—received transit benefits. Conversely, Senior Executive Service (SES) employees—the agencies' highest-salaried employees earning \$90,000 a year or more—had the lowest participation levels at 12 percent.

**Figure 1: Participation of Federal Employee Transit Benefit Recipients by Grade Level in DOE, DOT, and NASA**



Note: GS-10 employee participation is 10 percent—a finding that deviates from the overall trend represented in this figure. Because there were very few GS-10s relative to other grade levels, they were excluded from this analysis.

As figure 1 shows, smaller differences exist in the participation levels of employees at the middle pay grades. Between 29 and 31 percent of the employees at the GS-8 through GS-14 grade levels (excluding GS-10), earning between \$24,262 and \$70,987 a year, received transit benefits. GS-7 participation, at 36 percent, was slightly higher, while GS-15 participation, at 24 percent, was slightly lower. Our final report will include a survey of participating agencies and employees and will provide more comprehensive information on differences in employee participation by pay class.

## Cost and Management of Federal Transit Benefits

We estimate that the cost to federal agencies of providing employee transit benefits in Washington, D.C., was, as of July 1, 1992, approximately \$3.5 million a year. This is an annualized estimate based on around 13,900 federal employees participating in the program as of that date and assumes that each of these employees is receiving \$21 per month. The actual cost varies from month to month, depending on the number of agencies providing benefits. Also, the number of employees receiving benefits can vary each month, because an employee who has registered to receive benefits may not pick them up because of travel, illness, or other reasons.

## How Agencies Fund Benefits

Federal agencies may choose whether to provide transit benefits to their employees. The Congress did not appropriate additional funding for these benefits; instead, federal agencies that decide to offer benefits are expected to absorb the cost from within their existing budgets. The agencies we visited that offer benefits said that they acquired the money to fund transit benefits from such sources as

- personnel benefit accounts—used to pay employer contributions to employee health insurance, life insurance, and other employee benefit programs;
- personnel compensation accounts—used for paying salaries and wages for full- and part-time employees; and
- travel accounts—used to compensate employees for both their local-area and out-of-town travel expenses when on official business.

Officials at several agencies that offered employee transit benefits said that the costs of providing transit benefits to employees from these accounts were relatively small when compared with agency commitments to pay salaries, benefits, travel, and other employee expenses. For example, DOE's participation, at current levels, costs around \$470,000 annually, or about 2.5 percent of DOE's estimated fiscal year 1992 budget for civilian personnel benefits. Officials at several agencies said that funding for transit benefits was available and that no reprogramming actions were required. They were unable to point to any proposed expenditures that were canceled or delayed to accommodate transit benefits. In contrast, as mentioned earlier, agencies that have decided not to participate in state or local programs generally cited as the principal reason the inability to fund such benefits from existing resources.

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The Office of Management and Budget (OMB) issued a memorandum to the heads of federal agencies on June 12, 1992, suggesting that agencies fund transit benefits by charging for parking by federal employees. According to the memorandum, agencies

should, to the extent possible, develop a program that seeks funding offsets from other agency-offered or subsidized forms of transportation (e.g., agency parking).

Agencies are currently limited in their ability to use parking fees to fund transit benefits by statutory requirements limiting the use of revenues received from parking fees that exceed the costs of providing the service. Title 40 U.S.C. 490(j) permits the Administrator of the General Services Administration (GSA) to provide space and services to federal agencies and to charge them at approximately the commercial rates. The same statute, 40 U.S.C. 490(k), also allows agency heads to provide and charge for services such as employee parking. However, the statute requires that any funds an agency receives in excess of the actual operating and maintenance costs of providing the service be credited to the U.S. Treasury unless otherwise authorized by law. These provisions influence what the agencies would charge their employees for parking and limit the agencies' ability to offset the costs of transit benefits from increased charges on parking. (See app. V.) We will further review federal agency parking policies and practices in our final report.

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### Congress Recently Raised the Tax-Free Benefit Level

The Congress recently passed legislation (P.L. 102-486) to amend the Internal Revenue Code to allow all employees—including, under current law, federal employees—to receive up to \$60 a month in transit benefits tax free. OMB guidance directs federal agencies to provide no employee transit benefits greater than the amount determined to be excluded from taxation. As a result, under this legislation and OMB guidance, federal agencies would have the discretion to increase benefit levels up to a maximum of \$60 per month.

Most of the agencies we visited were skeptical that they could fund benefits at the \$60 level from existing budgetary resources. For example, the Federal Emergency Management Agency (FEMA), which estimates it will spend around \$140,000 in fiscal year 1993 to fund the \$21 benefit, would have to spend around \$400,000 to fund a \$60 benefit. FEMA, like other agencies, said that such added expenditures would constitute a substantial burden. FEMA stated that it would consider seeking additional funding from the Congress to cover the increased cost.

The costs of federal employee participation in state or local government programs will increase if (1) additional agencies begin participating, (2) employee participation rates increase, and/or (3) agencies participate at higher benefit levels under the recently approved legislation. As of May 1992 there were around 2.2 million full-time, permanent federal civilian employees (excluding postal employees) and 2.1 million uniformed military personnel worldwide. Assuming that participation reached half a million employees at some future date, table 1 lists possible transit benefit costs to federal agencies under different participation and benefit levels.

**Table 1: Prospective Federal Transit Benefit Program Costs**

Dollars in millions		
Employee participation	\$21 benefit level	\$60 benefit level
14,000	\$ 3.5	\$ 10.1
50,000	12.6	36.0
100,000	25.2	72.0
250,000	63.0	180.0
500,000	126.0	360.0

### Agencies Have Adopted Various Approaches to Participating in Transit Benefit Programs

While the authorizing legislation did not designate a lead agency for governmentwide participation in transit benefit programs, both GSA and OMB have issued guidance to federal agencies. GSA Bulletin FPMR D-227, published on July 23, 1991, suggested that participating federal agencies establish procedures to record information on the costs and numbers of passes, vouchers, and other media issued to employees, as well as internal controls to preclude improprieties and limit participation to eligible employees.

OMB's June 12, 1992, memorandum to the heads of federal departments and agencies reiterated that federal policy is to encourage the use of public transportation, but advised federal agencies that they may decide not to participate in programs if they conclude that providing benefits will probably not increase the use of public transportation or that such benefits do not represent the best use of limited agency resources. OMB's guidance further directs agencies to establish an evaluation plan to measure changes in employee commuting patterns.

In our previous report we identified two types of state and local government-sponsored programs that encourage the use of mass transit—outlet programs and voucher programs.<sup>3</sup> Under outlet programs,

<sup>3</sup>Mass Transit: Effects of Tax Changes on Commuter Behavior (GAO/RCED-92-243, Sept. 8, 1992).

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such as WMATA's Metropool program, employers act as sales outlets for local transit authorities. Employers order fare media—such as vouchers, farecards, and bus tokens—from transit authorities and resell them to their employees. In reselling the fare media to their employees, some employers subsidize their costs. Employers participating in Seattle's Employer Pass program discount transit passes by at least \$5 per month per pass per employee.

Under voucher programs, employers purchase public transportation vouchers from their local transit agency and distribute them to participating employees. The employees apply the voucher amount toward the purchase of their fare media. We will review federal participation in several programs to encourage the use of public transportation in cities outside of Washington, D.C., in our final report.

Participating federal agencies we visited in Washington, D.C., have generally provided transit benefits in the form of bus tokens, rail fare cards, or other media purchased directly from WMATA under its Metropool outlet program. However, some agencies issue reimbursement checks in the amount of \$21 per month to eligible employees. For example, the Office of Personnel Management instituted such a program for all eligible employees in June 1992. FEMA, while purchasing WMATA rail cards and bus tokens for most of its employees, also provides cash reimbursement for around 10 percent of its participating employees who use other area transit systems.

The Congress recently approved an amendment to the Internal Revenue Code to limit the ability of employees to exclude cash reimbursement transit benefits from their taxable income. Under the amendment, an employee may not exclude cash reimbursements from taxable income if transit vouchers, or similar items exchangeable only for transit passes, are readily available to the employer to distribute to the employee. There are as yet no Internal Revenue Service regulations discussing whether the amendment applies to outlet programs, such as the WMATA Metropool program in Washington, D.C., in which transit passes, rather than vouchers, are made available to the employer for distribution to employees.

The agencies we visited had established procedures and internal controls to limit participation to eligible employees and reduce the risk of theft, diversion, or misuse of transit fare media. We will evaluate the

effectiveness of these procedures in our final report. (These controls are further discussed in app. IV.)

## Many Factors Affect Transit Benefits' Impact on the Use of Public Transportation

In order for federal employees to receive transit benefits, their agencies must participate in state or local government programs that encourage employees to use public transportation. Many factors influence the extent to which federal agency participation will encourage employees to use public transportation. Transit benefits can be expected to encourage the use of public transportation by reducing its cost, but the size of this effect may be small for many reasons, including whether transit is conveniently located relative to the employee's residence or workplace. Employees who are expected to work irregular or off-peak hours may find it difficult to use public transportation or a carpool. Employees' personal needs, such as child-care arrangements, may make it difficult for them to use public transportation. The availability of transit benefits may encourage more employees to choose residential locations close to transit lines. If such changes occur, the impact of the benefit on encouraging the use of public transportation would grow over time.

The use of transit is also affected by the cost and availability of other commuting modes, especially commuting by automobile, either alone or in a carpool. The cost of commuting by automobile is significantly affected by the cost of parking. Many federal agencies provide free or subsidized parking to their employees, thus significantly reducing the cost of commuting by automobile. (See app. V.) Employers provide parking for their employees for a variety of reasons, including allowing employees to work irregular hours or providing a safer environment for employees.

## Observations

It is too early to tell whether providing transit benefits has succeeded or will succeed in encouraging greater use of public transportation among federal employees or, alternatively, whether the population of federal employees using public transportation will remain roughly the same. This impact will be a key consideration when the Congress considers whether and in what manner to extend agency authority to offer transit benefits for federal employees beyond 1993.

Our final report will address in greater detail the issues on which we have provided preliminary information here. Because available data on the commuting patterns of federal employees are quite limited, we will present the results of a survey of federal employees to assess how transit benefit

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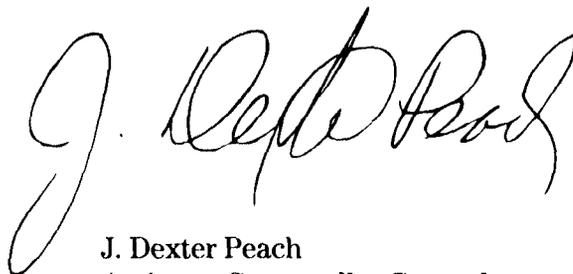
programs have affected their commuter behavior. We will also present the results of a survey of federal agencies to assess what factors affect agency participation and what the characteristics are of participating employees. We believe this information will be useful to the Congress as it focuses on the question of whether transit benefits should be reauthorized and, if so, what form they should take.

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To provide information on federal agency and employee participation in state or local government transit benefit programs, estimate the costs and describe the management procedures used to implement the program, and identify the factors that influence the program's success in encouraging the use of public transportation, we obtained information from 11 participating and 3 nonparticipating federal agencies in Washington, D.C., and contacted regional transportation organizations in 21 other cities. (Our objectives, scope, and methodology are discussed further in app. VI.)

Officials from the agencies we contacted reviewed the information contained in this report, and we have incorporated their comments as appropriate. However, because this is an interim report and because its scope is limited to presenting factual information, we did not obtain written comments.

This report was prepared under the direction of Kenneth M. Mead, Director, Transportation Issues, who may be reached on (202) 275-1000. Other major contributors to this report are listed in appendix VII. Copies of this report will be provided to interested parties upon request.



J. Dexter Peach  
Assistant Comptroller General



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# Contents

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Letter	1
Appendix I Federal Policy Is to Promote Public Transportation	18
Appendix II Federal Agency and Employee Participation in Transit Benefit Programs in Washington, D.C., as of July 1, 1992	20
Appendix III Tax Treatment of Employee Transit and Parking Benefits	22
Appendix IV Administrative and Internal Controls in Federal Agencies Providing Transit Benefits	23
Appendix V Federal Parking Policy and Practices	24

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Appendix VI Objectives, Scope, and Methodology		26
Appendix VII Major Contributors to This Report		28
Tables	Table 1: Prospective Federal Transit Benefit Program Costs	11
	Table V.1: Federal Agency Parking Practices	24
Figure	Figure 1: Participation of Federal Employee Transit Benefit Recipients by Grade Level in DOE, DOT, and NASA	8

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**Abbreviations**

DOD	Department of Defense
DOE	Department of Energy
DOT	Department of Transportation
FEMA	Federal Emergency Management Agency
GAO	General Accounting Office
GSA	General Services Administration
IRS	Internal Revenue Service
NASA	National Aeronautics and Space Administration
NRC	Nuclear Regulatory Commission
OMB	Office of Management and Budget
SES	Senior Executive Service
WMATA	Washington Metropolitan Area Transit Authority

# Federal Policy Is to Promote Public Transportation

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Federal policy is to enhance the national air quality, conserve energy, and promote an efficient national transportation system, including alleviating traffic congestion. Administration policy and acts of Congress have supported public transportation and increased employer-provided transit benefits to accomplish these policy goals.

- The Clean Air Act Amendments of 1990 (P.L. 101-549) require states to attain and maintain national ambient air quality standards. Since motor vehicles account for over half of all ozone pollution, including half of the hydrocarbon and nitrogen-oxide pollutants that form smog, metropolitan areas designated as serious, severe, or extreme for ozone pollution are required to consider implementing transportation control measures to reduce automobile traffic and emissions. These measures, specified in the act, include improving public transit and high-occupancy vehicle use, trip reduction strategies, and employer-based transportation management plans, including incentives. In addition, the act requires all federal agencies to conform with local measures for meeting ambient air quality standards.
- The Department of Transportation's national transportation policy statement, *Moving America: New Directions, New Opportunities*, issued in February 1990, urges the private sector to do its part to reduce traffic congestion and meet emerging transportation needs through several means, including providing transit benefits to employees.
- The Department of Energy's *National Energy Strategy*, issued in February 1991, states that the federal government will encourage the use of mass transit, ridesharing, carpooling, and other measures in order to meet the nation's energy goals and increase the efficiency of the nation's transportation system. The National Energy Strategy further states that

The federal government will encourage the use of mass transit in place of private, single-occupancy motor vehicles for commuting by increasing the amount of tax-free transit benefits that employers may provide to employees.

Shortly thereafter, the Internal Revenue Service raised the tax-free de minimis benefit level from \$15 to \$21 per month, effective July 1, 1991.

- The Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240), section 8004, finds that federal tax policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits and that this policy is inconsistent with national transportation, environmental, and energy policy objectives. The section concludes that the Congress

supports more equitable treatment of employer-provided commuter transit benefits to “level the playing field” between transportation modes.

- The Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101-509), section 629(a), permits federal agencies to participate in any state or local government program that encourages employees to use public transportation. The program may include the sale of discounted passes and other incentives that reduce the cost to the employee of using public transportation.
- The President’s Fiscal Year 1993 Budget proposed raising the maximum allowable tax-free transit benefit levels from \$21 to \$60 per month as a strategy for improving transportation energy efficiency.
- The Comprehensive National Energy Policy Act (H.R. 776), passed by the Congress on October 8, 1992, increases the level of tax-free transit benefits an employer can provide from \$21 to \$60 a month, a nearly three-fold increase in the tax-free benefit. In addition, the legislation provides that employer-provided parking, not taxable under current law, would become taxable if the benefit exceeded \$155 a month.

# Federal Agency and Employee Participation in Transit Benefit Programs in Washington, D.C., as of July 1, 1992

<b>Agencies</b>	<b>Participating employees</b>	<b>Total employees</b>
<b>Legislative Branch</b>		
Congressional Budget Office	85	220
U.S. Senate	1,200	3,200
U.S. Court of Military Appeals	14	45
U.S. Court of Veteran's Appeals	48	79
U.S. Tax Court	70	300
<b>Executive Branch</b>		
<b>Executive Office of the President</b>		
White House-Executive Residence staff	20	97
<b>Executive Agencies</b>		
Department of Energy	1,500	4,500
Department of Transportation	3,021	10,000
Department of the Treasury	600	1,400
<b>Independent Establishments and Government Corporations</b>		
Administrative Conference of the U.S.	11	20
Central Intelligence Agency	1,845	4,000
Commission on Civil Rights	23	60
Defense Nuclear Facilities Safety Board	30	60
Export-Import Bank of the U.S.	180	300
Farm Credit Assistance Board	20	20
Federal Emergency Management Agency	376	953
Federal Mediation and Conciliation Service	28	75
Federal Mine Safety and Health Review Commission	30	50
Federal Election Commission	185	260
Institute of Museum Services	14	17
Interstate Commerce Commission	325	479
James Madison Memorial Fellowship Foundation	3	6
National Aeronautics and Space Administration	1,000	2,000
National Capital Planning Commission	42	50
National Mediation Board	18	28
National Science Foundation	400	1,400
National Transportation Safety Board	100	100
Nuclear Regulatory Commission	395	1,500
Office of Government Ethics	45	53
Office of Personnel Management <sup>a</sup>	981	4,000
Panama Canal Commission	5	7
Pennsylvania Avenue Development Corporation	27	30
Postal Rate Commission	20	58

(continued)

**Appendix II  
Federal Agency and Employee Participation  
in Transit Benefit Programs in Washington,  
D.C., as of July 1, 1992**

<b>Agencies</b>	<b>Participating employees</b>	<b>Total employees</b>
Oversight Board (for the Resolution Trust Corp.)	10	36
Securities and Exchange Commission	954	1,600
Selective Service System	26	40
Trade & Development Program	14	35
U.S. Office of Special Counsel	30	80
White House Historical Association	8	14
<b>Boards, Commissions, and Committees</b>		
Advisory Council on Historic Preservation	30	47
Architectural and Transportation Barriers Compliance Board	27	35
Arctic Research Commission	2	5
Board for International Broadcasting	10	15
Commission on Agricultural Workers	3	10
Committee for Purchase from the Blind and Other Severely Handicapped	3	18
Japan-U.S. Friendship Commission	3	5
National Commission on Children	6	25
Presidential Commission on Women in the Armed Forces	14	14
U.S. Nuclear Waste Technical Review Board	13	20
U.S. Sentencing Commission	95	101
<b>Quasi-Official Agencies</b>		
Institute of Peace	26	40
<b>Selected Bilateral Organizations</b>		
International Boundary Commission	3	3
International Joint Commission	7	12
<b>Total agencies 53</b>		
<b>Participants</b>	<b>13,945</b>	
<b>Employees</b>		<b>37,822</b>
<b>Participation rate 36.87 percent</b>		

Note: GAO did not verify the data in this appendix.

<sup>a</sup>The Office of Personnel Management provides benefits to employees by check rather than by purchasing fare media from WMATA.

Source: Washington Metropolitan Area Transit Authority, except for the Office of Personnel Management. See footnote a.

# Tax Treatment of Employee Transit and Parking Benefits

Under Treasury Regulations interpreting the Tax Reform Act of 1984, employer-provided transit benefits are not taxable to the employee if they do not exceed \$21 a month. Section 1.132-6 of the regulations classifies such benefits as a “de minimis fringe benefit,” meaning that the benefit is taxable, but only if it exceeds a monthly dollar amount which the Internal Revenue Service (IRS) considers so small that accounting for and collecting the tax is unreasonable or administratively impractical. The IRS established this level at \$21, effective July 1, 1991. As a consequence, federal agencies participating in transit benefit programs to date have provided \$21 a month or less.

The Internal Revenue Code also governs the tax treatment of employer-provided parking and considers it a “working condition fringe benefit” that is not taxable to the employee whatever its cost or value. The Code defines working condition fringe benefits as employer-provided property or services that would be depreciable or deductible as a business expense. While parking would not otherwise have been considered nontaxable, the Tax Reform Act of 1984 defined employer-provided parking as a working condition fringe benefit.

Legislation passed recently by the Congress changes the tax treatment of employer-provided transit and parking benefits. The Comprehensive National Energy Policy Act (H.R. 776) passed by the Congress on October 8, 1992, and signed into law on October 24, 1992, increases the level of tax-free transit benefits an employer can provide from \$21 to \$60 a month, a nearly threefold increase in the nontaxable benefit. In addition, the legislation provides that employer-provided parking, not taxable under current law, is taxable to the extent that it exceeds \$155 a month. These amounts will be indexed to the rate of inflation, beginning in 1994.

# Administrative and Internal Controls in Federal Agencies Providing Transit Benefits

Participating federal agencies we visited had generally established procedures to help ensure that only eligible employees participated in transit benefit programs and used them only for home-to-work commuting by public transportation. For example, the agencies generally required employees to apply for benefits in advance and certify their eligibility. All agencies we visited that provided employee parking did not consider employees eligible for transit benefits if they parked or participated in a carpool that parked in a federal parking facility. These agencies regularly compared applications against agency facility parking lists and two agencies—the Department of Transportation and the Office of Personnel Management—said they were instituting procedures to check nearby federal parking facilities as well.

In addition, the agencies we visited required the individual employees to appear in person and present identification to pick up their monthly benefits. Finally, the agencies generally required employees to certify each month that the benefit was being used solely for the purposes of commuting to and from work via public transportation.

Participating federal agencies we visited had also generally established internal controls to minimize the risk of theft, diversion, or misuse of transit passes. Seven of the 11 agencies we visited divided responsibilities for administering the benefits among different administrative officials. For example, in the Department of Energy, one office reviewed and processed applications, another ordered and received bus tokens and rail cards, and a third handled employee distribution. We noted two cases in which one person was responsible for ordering, receiving, storing, distributing, and reconciling fare media; these were small agencies with 20 or fewer employees.

GAO did not test or validate the effectiveness of internal controls in preventing theft, diversion, or misuse in the agencies we visited. Federal agencies that choose to increase monthly employee tax-free benefit levels to \$60 may face greater risk of fraudulent acquisition and use of transit passes. We will examine the effectiveness of internal controls in selected federal agencies in our final report.

# Federal Parking Policy and Practices

We examined parking practices and policies in 11 federal agencies in Washington, D.C., that participated in transit benefit programs. Nine of the 11 provided parking facilities for their employees, mostly for carpools and senior executives. Six of the 9 agencies charged their employees for parking, while 3 agencies provided parking free of charge. Table V.1 summarizes parking practices at the agencies we visited.

**Table V.1: Federal Agency Parking Practices**

Agency	Provides parking	Charge for parking	Monthly amount charged	Monthly market rates
Department of Energy	Yes	Yes	\$10.25	\$139
Department of Transportation	Yes	Yes	10-21	139
Farm Credit System Assistance Board	No <sup>a</sup>			165
Federal Emergency Management Agency	Yes	Yes	20	139
National Aeronautics and Space Administration	Yes	Yes	30	139
National Transportation Safety Board	Yes	No		139
Nuclear Regulatory Commission	Yes	Yes	60	<sup>b</sup>
Office of Personnel Management	Yes	No		162
Securities and Exchange Commission	Yes	No		145
Board for International Broadcasting	No			150
Postal Rate Commission	Yes	Yes	62.50	150

<sup>a</sup>The Board's top three officials receive free parking; however, parking is not available to any other employees.

<sup>b</sup>Information was not available on the Nuclear Regulatory Commission because the Council of Governments' estimates did not include suburban locations.

Source: Agencies listed above. Market parking rates were provided by the Washington Metropolitan Area Council of Governments.

Parking charges are governed by 40 U.S.C. 490(k), which permits the head of a federal agency that is providing space and services, including employee parking, to charge for such space or services. The agency then credits the funds collected to the appropriation or fund used to pay the operating and maintenance costs of providing the service. However, any

funds received that exceed the actual operating and maintenance costs of providing the service are to be credited to the miscellaneous receipts account of the U.S. Treasury unless otherwise authorized by law.

According to officials at the Departments of Transportation and Energy and the National Aeronautics and Space Administration, fees are calculated to recover only the costs of contracting with a private company to staff and maintain the parking garage in their headquarters buildings. As a result, as table V.1 shows, these three agencies do not charge their employees fees comparable to market parking rates.

The Nuclear Regulatory Commission (NRC), however, charges its employees parking fees—\$60 a month—that are comparable to market parking rates. One reason is that parking rates are less in suburban locations. While no Council of Government estimates were available for NRC's suburban headquarters location, NRC officials estimated that commercial parking rates range from \$50 to \$75 per month. Under a traffic mitigation agreement with the county government, NRC agreed to charge parking rates comparable to market parking rates and, according to Commission officials, so informed the General Services Administration (GSA). Furthermore, NRC officials stated that 40 U.S.C. 490(k) allows them to charge employees parking fees to recover not only the costs paid to the contractor to manage and operate the parking facility, but also a portion of the "rent" paid to the GSA Buildings Fund attributable to the cost of the parking facility.

Our final report will more closely examine the impact of free and below-market priced parking on federal employees' commuting choices.

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# Objectives, Scope, and Methodology

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The purpose of this interim report is to provide information on the status of federal agency and employee participation in state or local transit benefit programs. Our objectives were to (1) provide information on the extent of federal agency and employee participation in transit benefit programs, including, for selected agencies, the factors contributing to agency decisions to participate or not participate, and the rates of pay of participating employees; (2) assess the costs of federal participation and how agencies implement and manage their participation; and (3) identify factors that can influence the success of employee transit benefits in encouraging the use of public transportation. We made our review in response to section 629(d) of the Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101-509), which requires the General Accounting Office to conduct a study and submit a report by June 30, 1993, on (1) the implementation of the programs authorized in section 629(a) and (2) information on agencies and employees, including the rates of pay of employees participating in these programs.

To determine the extent of federal agency and employee participation in programs established by state or local governments, we contacted public transit authorities in Washington, D.C., and 21 of the larger U.S. metropolitan areas. In addition, we discussed implementation with cognizant officials and reviewed documents in the following 11 federal agencies based in Washington, D.C.:

- the Board for International Broadcasting,
- the Department of Transportation,
- the Department of Energy,
- the Farm Credit System Assistance Board,
- the Federal Emergency Management Agency,
- the National Aeronautics and Space Administration,
- the National Transportation Safety Board,
- the Nuclear Regulatory Commission,
- the Office of Personnel Management,
- the Postal Rate Commission, and
- the Securities and Exchange Commission.

We selected these agencies to present a cross section of larger and smaller federal agencies; these agencies employ about 60 percent of the approximately 13,900 federal employees who were receiving transit benefits from their agencies in Washington, D.C., on July 1, 1992. We also contacted the Department of State, the Department of Defense, and the Federal Maritime Commission—agencies that are not participating at this

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time. In addition, we obtained information on other nonparticipating agencies by reviewing records at the Washington Metropolitan Area Transit Authority. Also, we discussed federal participation in transit benefit programs with the Office of Management and Budget, the Office of Personnel Management, and the General Services Administration.

Our review was conducted from January to July 1992 in accordance with generally accepted government auditing standards.

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