



Pension Benefit Guaranty Corporation

Office of Inspector General

Audit Report

**PBGC's Mass Transit and Subsidized Parking
Programs**

September 30, 2008

2008-8/PA-0045



Pension Benefit Guaranty Corporation
Office of Inspector General
1200 K Street, N.W., Washington, D.C. 20005-4026

September 30, 2008

MEMORANDUM AUDIT REPORT

To: Ted Winter, Director
Financial Operations Department

Patti Davis, Director
Facilities and Services Department

From: Luther Atkins *Luther Atkins*
Assistant Inspector General for Audits

Subject: Audit of PBGC's Mass Transit and Subsidized Parking Programs

The Federal Transit Benefits Program is designed to subsidize federal employees' cost of using public transportation to travel to and from work. The goal of this program is to encourage federal employees to use mass transportation and vanpools in order to reduce traffic congestion and air pollution. In fiscal year (FY) 2007, PBGC spent about \$900 thousand on the Mass Transit Program (MTP) and the Subsidized Parking Program (SPP). In April 2007, the Government Accountability Office (GAO) reported numerous instances of fraud and abuse of the MTP and SPP by federal employees. In response, the Office of Management and Budget (OMB) re-emphasized the benefits of the federal transit benefits program and the importance of good internal controls to guard against fraud, waste, and abuse.

The President's Council on Integrity and Efficiency encouraged the OIG community to examine their agencies' MTP programs; therefore, we initiated an audit of PBGC's MTP and SPP programs. Overall our objective was to determine the adequacy of PBGC's controls over these programs. Specifically, the objectives of our audit were to determine:

- PBGC's adherence to prescribed internal controls established by OMB and its own policies and procedures;
- To determine the adequacy of PBGC's internal controls; and
- What role parking plays in PBGC's MTP and SPP programs and how other agencies implement parking as part of their programs.

RESULTS IN BRIEF

We found that PBGC's internal controls for the MTP and the SPP are generally adequate; however, we found a few areas where improvements are needed. For example we found:

- Eleven former employees could have downloaded their MTP benefits months after they had left the agency and 4 of these individuals did download their benefits after leaving PBGC. PBGC's exit procedures need tighter controls to prevent this from happening again.
- Six PBGC employees were inadvertently listed as eligible to receive both MTP and SPP benefits, which is prohibited. An employee can only receive one of these benefits. PBGC needs to better guard against employees receiving double benefits.
- PBGC can improve its own internal operating controls by having a better separation of duties for the staff that operates the MTP programs.

Our final objective was to determine the role parking plays in both programs. We benchmarked with 9 other federal agencies and found that none of them allowed employees to include their costs for parking at the Metro in their mass transit benefit calculation. PBGC does allow its employees to include the cost of parking in their mass transit benefit calculation; however, in discussing this issue with PBGC's Office of the General Counsel (OGC), they agreed that the Transit Benefit program is separate and apart from the subsidies potentially available for "Qualified Parking" expenses. OGC also said that PBGC should ask its employees to recertify their metro subsidy commuting expense without the inclusion of any costs for parking. When we examined the MTP, we found that PBGC had not documented its position. Neither had PBGC documented its position on paying parking for the SPP.

Therefore, we recommend that PBGC document its legal basis for subsidizing parking for both of these programs. We also made several recommendations to improve the internal controls for the MTP and SPP. In commenting on a draft of this report, PBGC said that it agreed with our conclusions and recommendations. A copy of PBGC's comments on this report is in Appendix III.

BACKGROUND

Executive Order 13150, dated April 21, 2000, required all federal agencies to implement a transportation fringe benefit program that would encourage federal employees to use mass transportation and vanpools in order to reduce traffic congestion and air pollution. As a result, PBGC established its transit program to encourage its employees to commute by mass transportation, van pool or carpool. As of June 2008, PBGC had approximately 868 employees: 741 participated in the Mass Transit Program (MTP) and about 106 participated in the Subsidized Parking Program (SPP). Therefore, almost all PBGC employees participate in one of the programs. Employees are given the opportunity to participate in one of the two programs: the MTP or the SPP. However employees cannot participate in both programs simultaneously.

For FY 2006 and 2007, PBGC obligated \$686,000 and \$723,250, respectively to the MTP. Employees can receive up to \$115.00 per month depending on their costs to commute using

mass transit. In order to be eligible for the MTP, participants must be federal employees and commute to and from work via mass transportation or commuter highway vehicle on a regular basis. Of the approximately 741 employees who participated in the MTP, 604 employees receive Smart Benefits by downloading them on the Metro SmarTrip card and another 137 employees received their monthly benefits in the form of Metrocheks.

- The Smart Benefits is a web-based program that allows employers to assign a value to the employees' SmarTrip card. Effective January 2008, employees commuting to and from work via Metrorail and Metrobus must use a SmarTrip card. A SmarTrip card is a rechargeable fare card that can be purchased and registered through Washington Metropolitan Area Transit Authority (WMATA). In order for an employee to gain access to their Smart Benefits, they have to electronically download their benefits from the Metro station passes/fare card machine to the SmarTrip card each month.
- Metrocheks are paper fare cards that are received in denominations of \$1, \$5, \$10, \$20 and \$30. PBGC had 137 employees receiving Metrocheks. Employees who are commuting to and from work via MARC train, Virginia Railway Express and regional commuter bus service must still use Metrocheks because these systems do not have the needed equipment to read a SmarTrip card.

PBGC's MTP is managed by the Financial Operations Department (FOD).

PBGC also offers its employees the SPP. For FY 2006 and 2007, PBGC obligated \$183,500 and \$166,500, respectively, to the SPP. At the time of this audit, the total monthly cost to PBGC for each car to park was \$206.80; participating employees paid \$65.00 a month and PBGC subsidized the difference of \$141.80. The SPP consists of parking for carpools, employees with medical needs and executives in PBGC's 1200 K Street building garage. PBGC has approximately 80 parking permits available for subsidized parking: 65 carpool and medical need parking permits, and 15 executive parking permits. In order to participate in the carpool program, carpools are required to have 2 or more full-time federal PBGC employees and they must commute to work at least 8 one-way trips per week. Medical need parking permits require a physician's certificate. PBGC's SPP is managed by the Facilities and Services Department (FASD).

GAO issued a report on April 24, 2007, regarding the Federal Transit Benefits Program entitled "Ineffective Controls Result in Fraud and Abuse by Federal Workers." GAO found individuals selling Metrocheks on eBay and Craigslist; individuals receiving benefits to which they were not entitled; and overall weak internal controls.

As a result of the GAO report, OMB issued a memorandum to the Executive departments and agencies in May 2007 that required all agencies with a MTP to implement several internal controls designed to deter fraud, waste, and abuse. The OMB internal controls covered application requirements, independent verification of eligibility, and implementation controls. Specifically, the OMB required controls are:

Application Requirements:

- *Employee Home Address*
- *Employee Work Address*
- *Commuting Cost Breakdown*
- *Employee Certification of Eligibility*
- *Warning Against Making False Statements in Benefit Application*

Independent Verification of Eligibility:

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

Implementation:

- *Applicants Checked Against Parking Benefits Records*
- *Benefits Adjusted Due to Travel, Leave, or Change of Address*
- *Removal from the Transit Benefits Program Included in Exit Procedures*

In response to OMB, PBGC established a committee to address OMB controls. The committee recommended PBGC start using the SmarTrip card because it provides more security and reduces the opportunity for fraud, waste and abuse. For example, the SmarTrip card:

- *Identifies the owner*
- *Limits the amount that can be downloaded to \$300.00*
- *Can be used by the employee to self adjust for travel and other leave*

In addition, as part of the agency-wide recertification process, PBGC revised the MTP application to account for employees' absences due to holidays or leave during the year. Previously, the MTP application allowed employees to compute their monthly benefits based on 22 work days per month. However, the revised MTP application now only allows employees to compute their monthly benefits based on 20 days per month. Finally, the new application also requires employees to certify the accuracy of their estimates.

The Inspectors General Councils (President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency) encouraged each Office of Inspector General (OIG) to follow-up on the use and controls of the MTP at their particular agencies. The objective of this audit was to determine the adequacy of PBGC's controls over its MTP and SPP programs, including:

- PBGC's adherence to prescribed internal controls established by OMB and its own policies and procedures;
- To determine the adequacy of PBGC's internal controls; and
- What role parking plays in PBGC's programs and how other agencies implement parking as part of their programs.

AUDIT RESULTS

1. Adherence to OMB and PBGC controls

PBGC's internal controls for the MTP and the SPP are generally adequate; however, we found several areas where PBGC can make improvements in these programs. Most of the OMB and PBGC controls are printed on the MTP and SPP applications. Employees are expected to read and sign the application, confirming their compliance with the controls.

Mass Transit Program

PBGC's controls include employee certification of mass transit commuting costs and verifying that mass transit participants are not also receiving subsidized parking.

Commuting Costs Verified by Approving Official (OMB mandated control)

FOD's Payroll/Travel office does not verify whether employees' commuting costs are calculated accurately, as mandated by OMB. Rather, they determine the reasonableness of an employee's commuting cost. That consists of comparing the employee's home and work addresses to determine whether the distance traveled between the two locations seems reasonable without actually calculating the costs. Once the commuting cost is deemed reasonable, the applicant's information is entered into the WMATA system. OMB noted in its memorandum some other federal agencies were affixing a copy of the WMATA Trip Planner to their MTP applications so that employees could accurately calculate their mass transit commuting costs. The Trip Planner is accessed through the WMATA website. It is an instant itinerary for trips on Metrorail, Metrobus, and other transit providers, and includes fare and travel times.

In the fall of 2007, PBGC employees were required to recertify their eligibility for MTP benefits. FOD originally proposed to require employees attach a copy of the Trip Planner to the application showing their commuting cost. However, the Employees Union disagreed with the agency decision to make the Trip Planner mandatory. In addition, FOD officials stated that it wasn't possible for mass transit costs to be calculated with the trip planner because PBGC allows employees to include parking costs in their mass transit commuting costs calculation. Unless commuting costs are accurately verified, employees may request and receive more benefits than they are entitled to receive. In GAO's report, some employees were selling excess Metrocheks on the internet and other places. Because the excess benefits are recurring monthly, they can accumulate and needlessly cost PBGC. This type of condition can lead to potential fraud and abuse of the MTP.

After bringing this issue to FOD's attention, they said that they were implementing a system to help verify employees' commuting costs. FOD has developed procedures to conduct random audits of employees' applications for the MTP Subsidy. These random audits will be performed quarterly to verify current addresses in the system, commuting costs, and any extended leave or travel taken over the prior 3rd quarter beginning with the 3rd quarter ending June 30, 2008.

Removal from the Transit Benefits Program Included in Exit Procedures (OMB mandated control)

We also tested PBGC exit procedures (an OMB-mandated control) and found that PBGC procedures were not always working properly. For example, OMB and PBGC internal controls require that employees who leave the agency be removed from the transit benefit program. This control is included in PBGC's employee exit procedures. During our testing, however, we found 11 former employees who were not immediately removed from the MTP and were still able to download MTP benefits on their SmarTrip card after they left PBGC. In fact, 4 of those employees did download the MTP benefit on their SmarTrip card after leaving the agency, costing PBGC \$903.75.

- The first employee downloaded benefits for at least 4 months after leaving the agency, costing PBGC \$420.00. This individual left in September 2007 and downloaded at least through February 2008.
- The second employee downloaded benefits for at least 3 months after leaving the agency, costing PBGC \$308.75. This individual left in March 2007 and downloaded until May 2007.
- The third employee downloaded benefits for 1 month after leaving the agency, costing PBGC \$110.00.
- The fourth employee downloaded benefits for 1 month after leaving the agency, costing PBGC \$65.00.

A PBGC official said that normally when an employee terminates, FOD deletes that person from the MTP. However, FOD said that they do not always receive the employees' separation forms. In these eleven cases, FOD did not delete the person from the MTP, thus the terminated employee had the ability to receive benefits on their SmarTrip cards. We advised management about this situation for them to take corrective action.

After we notified PBGC of this situation, it recently implemented a new exit procedure to check if an employee is receiving SmartBenefits or Metrocheks prior to leaving the agency.

Benefits Adjusted Due to Travel, Leave or Change of Address (OMB mandated control)

By June 30, 2007, OMB required each agency to confirm in writing that, at a minimum, it had implemented the internal controls listed in its attachment. In June 2007, PBGC responded to OMB and said that all listed controls had been implemented with the exception of the following two controls: "Commuting Cost Breakdown" and "Benefits Adjusted Due to Travel, Leave, or Change of Address." Further, PBGC said in its response to OMB that both controls would be included in its re-certification program and that they would implement them as soon as possible. In response to OMB, PBGC established a committee to help address OMB controls. The committee decided to revise the MTP application to account for employee's absences due to holidays and leave. The application instructed employees to multiply their daily commuting costs times 20 days to determine the monthly commuting costs. Previously, the application instructed employees to use 22 days for the average work days per month in

determining monthly commuting costs. PBGC also adopted a new procedure for amending benefits due to change of address. The procedure requires the person in the Payroll/Travel Office responsible for amending employee's benefits to review the new address for reasonableness.

PBGC employees are expected to self-adjust for extended travel and other leave. PBGC reinforced this expectation by publishing in its February 2008 newsletter that employees are required to adjust their transit benefits upon changes to their commuting method or work schedule. Further, the employee can self-adjust by reducing their downloads on the SmarTrip card.

Subsidized Parking Program

FASD officials perform quarterly audits to ensure employees are adhering to its internal controls. FASD reviews the rider's access card report and timesheet for the period being audited to determine whether the employees are riding to work together. FASD also prepares a monthly list of parking participants and forwards it to FOD for review to make sure that these participants are not also receiving MTP benefits.

Duplicate Benefits

We tested to see if employees were receiving both MTP and SPP benefits, which is prohibited. Overall, PBGC has controls in place to guard against employees receiving benefits from both programs. However, our test found that 6 employees appeared on both the MTP and SPP list from October 2007 through February 2008. In fact all six employees were capable of receiving the duplicate benefits because the employees were in carpools and their MTP benefits were still available for them to download from the Metro station passes/fare card machine or to pick-up from Payroll/Travel office. Fortunately, these employees did not use this opportunity to fraudulently obtain duplicate benefits. We advised management about this situation for them to put steps in place to guard against the opportunity for employees to obtain double benefits.

Recommendations

We recommend the Director of FOD:

- initiate steps to collect the \$903.75 from the four former employees who improperly downloaded SmarTrip benefits after they were no longer PBGC employees. **(FOD-379)**
- take steps to ensure that employees are not able to receive MTP and SPP benefits simultaneously. **(FOD-380)**
- evaluate the new exit procedures to ensure employees are removed from the MTP timely. **(FOD-381)**

We recommend the Director of FASD:

- take steps to ensure that employees do not receive MTP and SPP benefits simultaneously. (FASD-137)

Agency's Response

The Directors of FOD and FASD agreed with the recommendations and stated that they were taking actions to complete them by December 31, 2008.

2. Adequacy of controls

Separation of Duties

We found that some of the responsibilities assigned to the person who operates the MTP program needed reassignment. The MTP has one individual who is responsible for the day-to-day operations of the program. We observed that there could be a better separation of duties for this employee to promote a stronger internal control environment. One individual in FOD orders, receives, and approves the Metrochecks and also authorizes payment. Some of these duties should be performed by another individual.

With respect to the MTP program, the FOD Administrative Management Specialist orders the Metrochecks, receives the Metrochecks, and approves the invoices for payment to PBGC's General Accounting Branch. In addition, this individual accounts for the Metrochecks through monthly reconciliations and sometimes distributes the Metrochecks to employees when needed. This individual is also the COTR on a contract that provides four contract employees who, among other things, distribute the Metrochecks. Our concern is not with the individual performing the task but that the control structure does not allow for separation of duties. Therefore, from an internal control perspective, a separation of duties and responsibilities is needed. GAO's report showed that Metrochecks are vulnerable to fraud because they can be easily sold for cash. Assigning some of these responsibilities to another FOD staff person would promote a stronger internal control environment.

After we informed FOD officials about this situation, they subsequently informed us that they have taken steps to separate the COTR responsibilities by assigning some of these responsibilities to another federal employee. Because FOD has already taken corrective action, we are not making any recommendations.

Documented Policy and Procedures

We found that FOD and FASD need better documentation of their internal operating procedures for these programs. For example, FOD has developed operating procedures for setting up new Smart Benefit users, mass transit subsidy program application procedures, and creating monthly Metrochecks and SmarTrip Lists. The internal procedures do provide guidance for those operating these programs but we found that the procedures need more detail and clarity to be effective. For example the operating procedures could be clearer, include

timeframes, be measurable, and be more specific. FOD said that it has documented policies and procedures; however, our review found the operating procedures were vague, timeframes were not always included, and information was not always verifiable. For example, FOD told us that when an employee submits an application, one contract employee inputs the data and initials the application, and another verifies the information and data inputted. These practices are not included in the operating procedures, and there is no procedure to document the second contractor's verification of the data input. These are good internal controls that FOD should document in its policies and procedures.

In addition, we also noted a similar situation in FASD on the administration of the parking permit program. FASD has documented policies for the SPP on the application for the parking program participants to certify their compliance. This helps prevent fraud, waste, and abuse and misunderstanding. In addition, these policies are clear, specific, and have timeframes. However, FASD only has ad hoc internal operating procedures that are not documented. Procedures should be documented to implement consistent application of operations. For example, if the Subsidized Parking Administrator departs FASD or the agency or is on leave, someone else would have documented instructions for carrying out these responsibilities in their absence. Consistency of application also protects against fraud.

Recommendations

We recommend the Directors of FOD and FASD:

- develop standard operating procedures that are verifiable and include timeframes for the administration of MTP and SPP. **(FOD-382 and FASD-138)**

Agency's Response

The Directors of FOD and FASD agreed with the recommendation above and stated that they will take action to complete it by December 31, 2008.

3. The role of parking in MTP and SPP

PBGC leases its building located at 1200 K Street NW, Washington, DC rather than operating out of government-owned or government-leased space, and provides subsidized parking in this building for 15 executives and 65 carpools and/or individuals with disabilities. For determining commuting expense to obtain Smart Benefits and Metrocheks, PBGC allows employees to include the cost of parking in their estimated cost calculation for the MTP.

Our research found that there is a legal question as to whether parking costs, either at the Metro or in PBGC's leased space, can be subsidized. The question arises out of the interpretation of the Internal Revenue Code and whether paying parking expense is allowable.¹ We met with the OGC to determine PBGC's legal basis for: (1) allowing the cost of parking to be included in the mass transit benefit calculation and (2) subsidizing carpool and executive parking. Based on our discussions with OGC, PBGC has not documented the legal basis for either case.

¹ US Code: Title 26, Section 132, Certain Fringe benefits

Mass Transit Program

We benchmarked with nine other federal agencies² to determine how these agencies' policies treated parking in their MTP and also requested copies of their agencies' MTP applications. Unlike PBGC, none of these nine agencies allowed employees to include the cost of parking in the employee's estimate of monthly mass transit commuting costs. Each agency stated explicitly on its MTP application that the cost of parking should not be included in the employee's mass transit benefit calculation. During our audit and discussions with PBGC officials on this issue, we found no data explaining why PBGC decided to allow employees to include parking costs in their mass transit commuting cost calculation. This practice increases each employee's estimated cost to commute using mass transit. This practice also potentially increases PBGC's cost of this program. Though we did not make a legal determination of whether the cost of parking should be included in the employees' estimate of their monthly mass transit commuting costs, we note that other federal agencies believe parking costs are not permitted.

In discussing this issue with OGC officials, they agreed that the Transit Benefit program is separate and apart from the subsidies potentially available for "Qualified Parking" expenses. OGC also said that PBGC should ask its employees to recertify their metro subsidy commuting expense without the inclusion of any costs for parking.

Subsidized Parking Program

On the issue of subsidized parking, we benchmarked with four agencies that are similar to PBGC; they are not in government-owned or GSA-leased properties, but rather lease private building facilities. We did not benchmark with federal agencies that are in government-owned space as parking in those buildings would be a matter of how the parking permits are allocated rather than cost. In addition, for GSA's leased space the particular contract dictates whether building parking is provided and the cost. We found:

- Two of the four agencies subsidize parking for carpoolers and for those with medical needs (Corporation for Public Broadcasting and Federal Housing Finance Board).
- Three of the four agencies allowed employees to establish pre-tax parking accounts to pay for their own parking costs (Corporation for Public Broadcasting, Equal Employment Opportunity Commission and Federal Housing Finance Board).
- Three of the four agencies subsidize parking for executives (Corporation for National and Community Service, Corporation for Public Broadcasting and Federal Housing Finance Board).

² The Departments of Commerce, Labor and Transportation, as well as the Environmental Protection Agency, Federal Trade Commission, Government Accountability Office, Library of Congress, National Labor Relations Board, and Securities and Exchange Commission.

Thus, our benchmarking results show there is inconsistent treatment among those who lease space in privately-owned buildings. When we discussed this issue with PBGC officials, we found that there was no documentation of PBGC's decision to subsidize employee parking.

We did not make a determination of whether it is legal for PBGC to incur costs for parking, either as part of the mass transit subsidy or subsidized parking in the headquarters building. However, we believe PBGC needs to make this determination and document its conclusions.

Recommendations

We recommend the Office of the General Counsel research and document:

- the legality of PBGC subsidizing parking at its headquarters building, and **(OGC- 38)**
- its interpretation that the cost of parking should not be included in employee's mass transit commuting cost calculation. **(OGC- 39)**

Agency's Response

The General Counsel agreed with the recommendations above and stated that she is taking action to complete them by December 31, 2008

Appendix I: Objectives, Scope and Methodology

Objectives

The overall audit objective was to determine the adequacy of PBGC's controls over MTP and SPP. The specific objectives of our audit were to determine:

- PBGC's adherence to prescribed internal controls established by the OMB and its own policies and procedures;
- To determine the adequacy of PBGC's internal controls; and
- What role parking plays in PBGC's MTP and SPP programs and how other agencies implement parking as part of their programs.

Scope and Methodology

Our audit scope was originally planned for Fiscal Years (FY) 2006 and 2007. Because certain data was not available for our review, we expanded our audit scope to include October 1, 2007 through February 28, 2008. We performed our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We conducted this audit from January 2008 to July 2008 and it included the following procedures:

We interviewed key agency officials from: FOD, FASD, OGC, Budget Department and General Accounting Branch to gain an understanding of PBGC's MTP and SPP.

In addition, we benchmarked with nine judgmentally selected Federal Agencies: Securities and Exchange Commission, Environmental Protection Agency, Small Business Administration, Federal Trade Commission, Department of Labor, National Labor Relations Board, GAO, Department of Commerce and Library of Congress to determine whether these agencies allowed employees to include the cost of parking in their estimated monthly commuting cost calculation for the MTP. We also benchmarked with four other agencies that are similar to PBGC to determine whether these agencies were providing subsidized parking to their employees. These agencies included the Equal Employment Opportunity Commission, Corporation for Public Broadcasting, Corporation for National and Community Service, and Federal Housing Finance Board.

We obtained the following information to further answer the objectives of the audit. Specifically we obtained and reviewed: written policies and procedures for FASD and FOD; relevant background data for MTP and SPP (i.e. OMB Memorandum May 14, 2007; PBGC's response to OMB Memorandum June 29, 2007; union documents; OIG Report Number 93-3/23077, "Transportation Subsidies," August 31, 1993 and GAO Report Number GAO-07-724T, "Federal Transit Benefits Program Ineffective Controls Result in Fraud and Abuse by Federal Workers," April 24, 2007.

Finally, we compared:

- Smart Benefit list to the Subsidized Parking list for October 2007 through February 2008 to ensure employees were not receiving both benefits;
- Metrochek signature list to the Subsidized Parking list for October 2007 through February 2008 to ensure employees were not receiving both benefits; and
- Smart Benefit list to the Human Resource Department Employee Separation list for March 2007 through February 2008 to ensure employees were not receiving benefits after leaving the agency.

Appendix II: Abbreviations

COTR	Contracting Officer's Technical Representative
FASD	Facilities and Service Department
FOD	Financial Operations Department
GAO	Government Accountability Office
MTP	Mass Transit Program
OGC	Office of General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
PBGC	Pension Benefit Guaranty Corporation
SPP	Subsidized Parking Program
WMATA	Washington Metropolitan Area Transit Authority

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Appendix III: Management Comments

See Attached



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

SEP 12 2008

To: Luther Atkins, Assistant Inspector General for Audit
Office of Inspector General

From: Judith Starr, General Counsel *JMS*
Office of General Counsel

Ted Winter, Director *Walter @ Luize for*
Financial Operations Department

Patti Davis, Director *pdavis*
Facilities and Services Department

Subject: Management Response to the Draft Report on PBGC's
Mass Transit Program and Subsidized Parking Program

Thank you for the opportunity to comment on your draft report. The federal government has encouraged use of mass transit and carpooling as a means to reduce congestion and help preserve the environment, and PBGC is pleased that to offer the Mass Transit Program (MTP) and the Subsidized Parking Program (SPP) as part of its employee benefit program. In an earlier review of other agencies, the Government Accountability Office (GAO) identified significant control issues and fraud in their management of these programs. This led to the President's Council on Integrity and Efficiency (PCIE) to request that Office of Inspector (OIG) offices perform assessments of their respective agencies. We had recently made improvements to these programs, making the independent perspective of your office in performing this review particularly timely and helpful.

We are pleased that your review did not identify the significant control issues or fraud identified by GAO at other agencies. We agree with the report's conclusions that our controls are generally adequate, and appreciate the opportunity to have discussed anticipated changes to the draft report in our meeting on September 4, 2008. The draft report does highlight areas where improvements can be made, and we agree with the report's recommendations and will make every effort to address them.

With regard to the inclusion of parking expenses in transit benefit calculations, we acknowledge that other agencies have excluded such expenses. Based on our earlier research of the different legal authorities involved, we acted in good faith in concluding that this was an acceptable practice. Subsequent research has indicated that the Internal Revenue Service addressed this issue under Revenue Ruling 2006-57. We will be implementing this requirement on a moving-forward basis, and will require eligible employees to complete new applications in the first quarter of FY 2009. As part of this

process, employees will be instructed to exclude parking expenses in transit benefit calculations and will certify that they will not use the provided benefit for parking expenses. We anticipate that the new benefits under the revised program will be available to eligible employees in January 2009.

With regard to other recommendations contained in the report, we are taking the following actions and expect to complete them by December 31, 2008:

- initiating collection activities for the \$903.75 referenced in the report;
- implementing a monthly reconciliation process cross-checking participant lists to avoid receipt of benefits under both MTP and SPP;
- implementing new exit procedures to ensure that benefits are terminated as part of the employee separation process and cross-checking participants against a monthly list of terminated employees;
- developing and/or refining standard operating procedures to address both the MTP and SPP, including timeframes and other requirements; and
- documenting the legal basis for parking benefits provided in connection with the SPP.

We intend to fully comply with laws and regulations relating to the programs that were reviewed. However, it is important to note in managing these programs that the need for effective controls must be balanced with the cost of administering them. As no program can be made fool-proof, we must assume some level of risk, or the costs will exceed the benefits of the programs. We note that our control improvements and the increased use of SmarTrip cards will reduce the potential for fraud and error. We are committed to implementing cost-effective controls to help prevent fraud or errors from occurring in the first place, or detecting such instances in a timely manner.

We appreciate the work of your office in reviewing this important area, and highlighting ways in which we can improve. We look forward to continuing to work with your office, as we progress in addressing the draft report's recommendations. Please contact us with any questions.

cc: Patricia Kelly, Chief Financial Officer
Stephen Barber, Chief Management Officer
Marty Boehm, Director, Contracts and Controls Review Department
Arrie Etheridge, Director, Human Resources Department