



Office of Inspector General

Audit of the FLRA's Federal  
Transit Benefit Program

AUDIT OF THE FEDERAL  
LABOR RELATIONS  
AUTHORITY'S FEDERAL  
TRANSIT BENEFIT PROGRAM

REPORT NO. AR-19-04

Federal Labor Relations Authority  
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## **Table of Contents**

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### **Audit Report**

Results in Brief .....	<b>1</b>
Background .....	<b>2</b>
Results of Audit .....	<b>3</b>
Recommendations .....	<b>7, 14</b>

### **Appendices**

Appendix 1: Acronyms .....	<b>16</b>
Appendix 2: Objectives, Scope, and Methodology .....	<b>17</b>
Appendix 3: Certification and Warning Statement .....	<b>19</b>
Appendix 4: Sample Transit Benefit Commuting Expense Worksheet .....	<b>20</b>
Appendix 5: Management Response .....	<b>21</b>
Appendix 6: Report Distribution .....	<b>24</b>

Colleen Duffy Kiko, Chairman

The Federal Labor Relations Authority (FLRA or Authority) Office of Inspector General (OIG) performed an audit of FLRA's Federal Transit Benefit Program (FTBP). The audit objectives were to determine whether FLRA had adequate policies and procedures in place to ensure compliance with applicable laws, regulations, and other requirements to prevent and detect waste, fraud and abuse in its FTBP.

The audit found FLRA established some management controls over the transit benefit program; however, there are several areas requiring significant improvements.

## **Results in Brief**

On April 21, 2000, Executive Order (EO) 13150, "*Federal Workforce Transportation*," was issued mandating all Federal agencies in the national capital region (NCR) to implement a "transit pass" benefit program by October 2000. The FLRA's FTBP was established to incentivize employees to use mass transit to reduce air pollution and traffic concerns. Employees who regularly commute via public transportation can receive up to a \$260 monthly transit benefit for 2018 or the actual commute cost.

FLRA's FTBP is administered by the Administrative Services Division (ASD). As of February 28, 2018, 128 FLRA employees had participated in the FTBP and the Authority had spent approximately \$132,133 for Fiscal Year (FY) 2017 and \$48,382 from October 1, 2017 through February 2018.

The Department of Transportation (DOT) Office of Transportation Services (TRANServe) distributes transit benefits through the TRANServe Debit Card to Federal agencies. TRANServe provides a web based application system and a requirement compliant platform for the administration of the FTBP. FLRA entered into an agreement with DOT's TRANServe for its FTBP electronic platform but has not fully implemented it or many of the other Federal requirements.

In addition to not complying with the TRANServe agreement, FLRA has not fully complied with the Office of Management and Budget's (OMB's) 2007 mandated internal controls for FTBPs.

The results from lack of compliance are the following:

- FLRA staff has not been trained in FTBP rules resulting in program violations, including transit benefit overpayments;
- Participant transit benefit applications are missing;
- TRANServe reports were not readily available or fully understood;

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- Applicable program rules are not being provided to TRANServe Debit Card holders;
  - Required disclosures and participant certification statements are not being made;
  - Commuting costs are not always disclosed or updated (e.g. recertification's are not required), and there is no documentation to support verification of these costs;
  - Slow removal of separated employees from the FTBP resulting in overpayments;
  - Some participants have received double commuting benefits (e.g. transit and parking); and
  - Funds are being expended that could have been put to better use (i.e., spending on TRANServe electronic FTBP but not utilizing it).

To strengthen management controls, we made 11 recommendations. The overarching recommendations are that FLRA should fully implement TRANServe's electronic FTBP and recover FTBP payments that were made to separated employees.

## Background

FLRA's FTBP was established to encourage employees to commute to work by means other than by single occupancy motor vehicles. To achieve this goal, the FTBP provides financial incentives to employees who regularly commute via public transportation, not to exceed the lesser of the Federal tax-excludable amount (i.e. \$255 per month in 2017 and \$260 in 2018) or the actual commute cost. In 2000, President Clinton issued EO 13150, "Federal Workforce Transportation," mandating Federal agencies in the NCR to implement a transportation fringe benefit program. These programs were to be developed in consultation with DOT and five other agencies. In 2007, OMB issued memorandum, M-07-15, to the heads of departments and agencies requiring the implementation of 10 internal controls to address potential fraud, waste and abuse that were uncovered by the Government Accountability Office (GAO) earlier that year in FTBPs.<sup>1</sup>

Currently, DOT is designated to promulgate standards for the FTBPs and has government-wide oversight and guidance responsibility to help ensure the consistency in transit programs. One way DOT accomplishes this mission is through its TRANServe organization, which provides transit benefits to over 200,000 Federal employees and over 100 Federal agencies.

The FLRA's transit benefit program is administered by the ASD. Effective October 1, 2016, ASD began to partially utilize TRANServe's electronic services to help administer its FTBP for those employees utilizing mass transit or van pools. The FLRA spent approximately \$132,133 on the transit benefit program in FY 2017 and \$43,382 from October 1, 2017 through February 28, 2018. As of February 28, 2018, approximately 128 agency employees had participated in the transit program. FLRA funds its

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<sup>1</sup> The heads of departments and agencies had to confirm, in writing, to OMB by June 30, 2007, that the internal Controls in the Memorandum had been implemented.

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employees' transit benefits via periodic Intra-Governmental Payments and Collections (IPAC) transfers to TRANServe, who then distributes the funds to Washington Metropolitan Transit Authority (WMATA) directly or via TRANServe's Debit Card for other transit providers (within and outside of the NCR). TRANServe's program complies with OMB's 10 internal control requirements for FTBPs and other internal control requirements for Federal agencies. TRANServe's program features include: program audits, electronic applications (and recertifications) reporting tools, and to assist with fraud detection, program cost monitoring and benefit usage analysis.

## **Results of Audit**

### **Noncompliance With FTBP Requirements:**

Nearly all of the FTBP requirements (and best practices) under FLRA's Memorandum of Agreement (MOA) with TRANServe for the administration of its program were not implemented or lack evidence of implementation. The agreement requires FLRA administer its FTBP in accordance with the MOA's requirements, including related statutory, regulatory, and administrative standards. Below is an enumeration of FTBP requirements under the MOA and by OMB.

The MOA lists requirements related to employee knowledge and specifically states employees must be told what they need to know and understand;<sup>2</sup> it includes the following:<sup>3</sup>

1. Understanding the limitations of the transit benefit program;
2. Prohibitions against transferring or selling the fare media to anyone;
3. Potential penalties for misuse of, or making a false claim in obtaining, a transit benefit;
4. Not named on a worksite parking permit at any Federal agency nor otherwise participating in a carpool;
5. Authorized to use the transit benefit only for their regular home to work transportation;
6. The amount of transit benefits received does not exceed actual monthly commuting cost by public transportation;
7. It is a violation of law to provide false or fraudulent information to obtain transit benefits, to transfer or sell the transit benefit; and
8. Personally responsible for adjusting the transit benefit amount upon changes to commuting methods or work schedules such as extended leave or telecommuting.

In addition, the MOA requires employees to recertify their commuting costs on an annual

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<sup>2</sup> DOT employees are required to complete Integrity Awareness Training upon enrollment and annually at the time of recertification. Per the MOA, this training is available for adaptation by FLRA, and its use in conjunction with the annual recertification process is considered a best practice.

<sup>3</sup> These 8 items come from DOT's Transit Benefit Program Policy and Guidance, April, 2012, 38 (Appendix F), but reiterates the requirements found in the MOA.

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basis and when changes are made to the subsidy rate or for transit fares increases.<sup>4</sup> DOT's guidance for all FTBP participants requires participants to adjust the transit benefit amount for changes in commuting methods and work schedules (such as leave, teleworking and holidays) or change of addresses.

OMB's memo, M-07-15, requires the following on employee applications for internal control purposes:<sup>5</sup>

1. the employee's home address;
2. the employee's work address;
3. a commuting cost breakdown<sup>6</sup>;
4. a certification statement of employee eligibility (see Appendix 3);
5. a warning against making false statements in the application (see Appendix 3);
6. a commuting cost verification<sup>7</sup>
  - i. e.g., a cross-check of employee home addresses against payroll address records
  - ii. verification of employees' calculations of commuting costs;
7. verification of eligibility;
8. checks to ensure parking benefits are not being received (to ensure no "double dipping");
9. checks to ensure adjustments are made for travel, leave, or address changes; and
10. removal of employees from the FTBP upon separation.

Other agreements FLRA made in the MOA include submitting all applications electronically; and identifying and taking action against participants making false claims, selling, illegally transferring, or otherwise violating program requirements. Some other TRANServe best practices<sup>8</sup> include monthly reviews to ensure separated employees and employees on extended leave or travel are not receiving benefits, and that telework is being adjusted for non-commuting days. For infractions of these items, notifications to employees should be made in writing.

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<sup>4</sup> TRANServe responses to questions about the need for annual recertification were that, "recertification as required by the IRS code precedes enrollment of TRANServe employees in the Debit Card program." Annual recertification is one of determinants used by IRS to find that the debit card provided a qualified transportation fringe benefit. GAO. Report to Congressional Requesters, Federal Transit Benefit Program, DOT's Debit-Card Internal Controls Are Designed to Be Consistent with Federal Standards, <https://www.gao.gov/assets/680/670558.pdf>. (May, 2015)

<sup>5</sup> OMB's memo also included an attachment in the form of a sample agency memo that discusses transit subsidies for regular to and from work public transportation costs during a month. It discusses certifications concerning eligibility, not "double dipping" (not also receiving a parking benefit), not transferring benefits, only using benefits for regular commuting costs, returning unused benefits, that the application amount for benefits was correct, and a false, fictitious, or fraudulent statement warning.

<sup>6</sup> TRANServe recommends that each participant provide a completed expense worksheet and a printout of travel plans/cost for each provider of transportation. Best practice derived from TRANServe, Oversight Guidelines for Program Coordinators. <https://www.transportation.gov/transerve/oversight-guidelines-program-coordinators>. (2017, February 10). See Appendix 4 for example worksheet from DOT.

<sup>7</sup> Ibid. TRANServe recommend that supervisor or person of authority signs the application after verifying the costs for reasonableness.

<sup>8</sup> Ibid.

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## **Lack of Internal Controls:**

We found FLRA to be non-compliant with the FTBP's internal controls requirements as provided for by TRANServe's MOA, best practices, and OMB. Two basic FLRA internal controls that need improvement are training and document retention. Transit benefit usage training not only relates to internal control but is specifically required in the MOA. Beyond the MOA's requirement is Integrity Awareness Training; providing real life scenarios to enhance understanding and address the ramifications of non-compliance.

### Staff- Not Trained

Neither transit benefit usage training nor Integrity Awareness Training are being provided to FLRA transit benefit participants. The Director of ASD stated that FLRA provides no training nor has he ever seen any, and that he was not here when the program was setup.<sup>9</sup> In addition, he stated, most employees are familiar with the program prior to their on boarding (he related that many come from other Federal agencies). However, during the conduct of this audit we found that several FLRA employees were unsure what is allowable and not allowable, or disregarded the program's requirements.

Employees reported that they did not know what the program requirements were; they reported usage violations, such as regularly utilizing Government benefits to attend Government meetings (or for appointments to and from work),<sup>10</sup> maintaining two transit cards in case one was lost or stolen, and carrying over benefits to subsequent months. Several employees, not in the NCR, appeared to be aware that benefits were to be used only in the month received, but continued to obtain and then utilize funds after the end of the month. Another employee reported that there was no mechanism to return unused funds or to return unused fare media. The total cost of program abuses due to a lack of training is unknown and cannot be estimated due to the individuality of actions and the passage of time. However, it is vital that an initial training program be introduced, and we recommend requiring annual refresher training. TRANServe provides training materials and other agencies' training materials are available on TRANServe's website.

### Documents Not Retained

The MOA provides for document retention<sup>11</sup> as a tool for FLRA oversight, including identifying those violating benefit requirements. TRANServe best practices recommends monthly reviews to ensure the accuracy of transit benefit billing reports, including reviewing separation records, leave, telework, change of address records, and parking records against reports.

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<sup>9</sup> The Director signed the MOA in September 2016 that implemented the electronic TRANServe program and its requirements. The MOA was effective October 1, 2016 and ends September 30, 2021 with the exercise of renewal options.

<sup>10</sup> Transit benefits should only be utilized for the regular work to home commute; other authorized government work travel might be reimbursable as a local travel expense.

<sup>11</sup> TRANServe agrees to comply with the National Archives and Records Administration's record retention requirements for transit program records; records should be maintained utilizing an annual cutoff and then retained for 3 additional years.

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## Applications Missing

One of the most basic internal controls is the maintenance of appropriate documentation; it provides a tangible history of what was done and the decisions made. From our discussions with ASD, we were informed that all applications were received on paper or from e-mails. We requested all the application documents from ASD that were the basis for any transit benefit paid to participants during the audit period from October 1, 2016 through February 28, 2018. ASD responded by providing a binder that contained applications for 22 of the 128 participants that received benefits during the audit period, leaving no applications for 106 participants. The Director of ASD said that they did not have any other applications and suggested we check with FLRA's Budget and Finance Division (BFD),<sup>12</sup> who handled the program prior to his arrival. The Director also said that he understood it was a shortcoming not to have those records.

In addition to FTBP application records, we requested any other ASD documents related to the administration of FLRA's FTBP. ASD provided the following four items in connection with TRANServe: (1) the MOA; (2) DOT's April 2012 Transit Benefit Program Policy and Guidance;<sup>13</sup> (3) the FY 2018 Interagency Agreements (IAA); and (4) one or two quarterly participant report histories (we requested the quarterly reports and the entire applicable universe of TRANServe reports be obtained and sent digitally). In the applications book was TRANServe's Oversight Guidelines for Program Coordinators. Two transaction items, the FY 2017 IAA agreement, and six IPAC transaction receipts, were not initially available from ASD, and had to be retrieved.<sup>14</sup>

The majority of the documents, approximately 184 items,<sup>15</sup> were retrieved from TRANServe (these were not maintained by ASD or BFD) with great difficulty (three items were never received) because of password protection issues. These items were TRANServe billings and participant activity reports (usage, additions, and withdrawals). Although offsite storage is acceptable, it was apparent that retrieval of past reports from TRANServe is difficult, and it would be beneficial for FLRA to retain this information internally to improve accessibility and for internal control purposes (retrieval of information may not have been an issue if FLRA was directly utilizing TRANServe's online services).

ASD stated quarterly participant history reports are the only reports used to monitor participant activity. Even so, ASD was unable to provide data definitions for what appeared to be the most important field headers. Without knowing what makes up the most important fields in the report, it begs the question as to the effectiveness of program oversight. Data definitions need to be obtained and more of the program reports need to be reviewed on a monthly basis.

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<sup>12</sup> BFD reported they had no transit benefit applications in their possession.

<sup>13</sup> This is DOT's most current program policy.

<sup>14</sup> These items were provided about a week later.

<sup>15</sup> There were approximately 11 reports generated each month for 17 months less 3 missing reports.



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## **Recommendations:**

To strengthen management controls, ASD should:

1. Adapt and implement TRANServe’s Integrity Awareness Training for all new Federal transit benefit applicants and require participants take training annually prior to the annual recertification.
2. Obtain and retain all reports available from TRANServe, to be held electronically on FLRA servers with appropriate backup for a 3 year period following the end of the year, and for each year thereafter.
3. Obtain data definitions for all report fields for which there is any ambiguity as to their meaning, and obtain all data definitions for the “Quarterly Agency Total’s Report” field headers.
4. Require participants to submit applications and changes in commuting costs through TRANServe’s electronic platform.

## **Management’s Response**

FLRA management concurs with the four recommendations above and will work with TRANServe to address each

## **OIG Comment**

Management’s response meets the intent of our recommendations. See the full text of Management’s responses in Appendix 5.

## **Application Form Missing Required Information:**

### **Applications and Participation Rules Are Not Applicable to TRANServe Debit Card Holders**

FLRA’s FTBP application and its associated rules are only applicable to those that participate in the Smart Benefit’s<sup>16</sup> mass transit program and are not applicable to TRANServe Debit Card holders<sup>17</sup> who utilize other forms of mass transit. The following titles, information, and instructions are contained on the application:

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<sup>16</sup> Smart Benefits is a program of WMATA which consists mostly of DC’s metro and bus system. Some local city or county transportation providers also accept Smart Benefits transit cards.

<sup>17</sup> TRANServe Debit Card holders use transit other than Smart Benefits transit, such as: commuter trains, state or commuter bus services, van pools, or non NCR transportation services.

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- The title on FLRA’s FTBP application<sup>18</sup> is “Transerve Smart Benefits<sup>19</sup> Application.” The application defines Smart Benefits as electronic fare media which is added monthly to the participant’s transit/debit card, and which is permanent and registered with the employee’s transit system at the time of purchase. **Note:** the title applies to Smart Benefits participants only and not to TRANServe Debit Card holders; TRANServe Debit Card holders do not register their card with their transit systems and they do not purchase it.
  - A boxed-in area on page 1 of the application is titled, “Rules of Smart Benefits Participation”; eight rules are listed in the box. **Note:** the rules title mentions Smart Benefits but not TRANServe Debit Card holders.
  - The rules on page 1 of the application state that all required information must be provided for program participation. **Note:** This statement should result in those that only have a TRANServe Debit Card being ineligible to participate in the FTBP.
  - Page 2 of the application asks three times for information relating to the Smart Benefit transit card (i.e., the cards registration address, the card number, and a copy of the card).

Approximately 44 percent of FTBP recipients have a TRANServe Debit Card, but only 1 utilizes Smart Benefits.<sup>20</sup> TRANServe completed the “roll out” of its debit card before the end of FY 2014 and FLRA’s form was revised in 2016. However, for unknown reasons the revision did not address TRANServe Debit Card users and their requirements.<sup>21</sup> Resultantly, no rules are actually being enumerated for the TRANServe Debit Card users; proper updating of the form is needed.

#### False Statement Warnings and Certification Statements Are Not Properly Provided in the Application

As discussed above, OMB and TRANServe have application requirements or have provided information that included warnings be given about making false statements. In addition, participants are required to provide certifications that include: agreements to adjust transit benefits for commuting absences during the month (telework, leave, flex schedules, etc...), and prohibitions against transferring or selling benefits. FLRA’s application is not compliant with these implementation requirements.

Also, we noted, the application’s signature line is not at the end of the application, so as to encompass all the application elements, (the applicant’s signature line is

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<sup>18</sup> This title is used on both pages of FLRA’s FTBP application.

<sup>19</sup> TRANServe directly funds registered SmarTrip Cards for those participating in WMATA’s Smart Benefit program.

<sup>20</sup> As of February 2018.

<sup>21</sup> Other required application information is also not requested or provided for; why the application form was not inclusive of the requirements is unknown, but it appears plans to fully utilize TRANServe were sidelined, which resulted in less than appropriate applications and other implementation issues.

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above the disclosure of commuting costs and the transit card number) – no attestation regarding the correctness of information is required/requested. Following this information/at the end of the application, is a section labeled, “\*\*\* To be filled out by the Agency Transit Coordinator.\*\*\*” In small print, it contains a paragraph that starts out, “**Privacy Act Statement,**” and mentions the voluntary nature of the disclosure, et cetera. Included in the same paragraph, is that the purpose of this application information is to ensure eligibility, to prevent the misuse of funds, and that parking will be matched with lists at other Federal agencies to ensure consistency with mode of transportation checked. These statements reflect some of the needed certification elements but are easily overlooked and are not in the form of certifications by the participant, as required.

#### Application Forms Lack Application and Processing Dates

The lack of dates by both the applicant and by ASD (only the “Authorized Starting Month” is provided) makes it impossible for ASD to know of, or address programmatic timeliness issues that might arise or individual application processing timeline issues. Moreover, ASD has not developed any internal timeline policies (ASD claims that they process everything immediately), except that TRANServe policies are said to be followed. In light of the lack of timeline policies or timeline tracking, there are of course no timeliness issues. Despite agreeing to TRANServe policies, we have observed many areas of non-compliance that are discussed in this report.

#### No Information is Provided Concerning the Calculation of Commuting Costs

OMB and TRANServe both call for a verification of commuting costs which cannot be done without home address information. In addition, OMB memo, M-07-15, specifically requires both a work address and home address be on the application. FLRA’s application form asks for the employing agency’s location, but does not request the employee’s home address; it requests only an address that must match the transit card registration address. Three of the 22 applications reviewed provided no home address, only the FLRA’s office address was given.

In addition to address information not being required for verification of commuting costs, there is no requirement for the employee to break down his/her commuting costs. Very few of the applications reviewed provided commuting cost information. TRANServe recommends a worksheet (this is included as part TRANServe’s electronic FTBP) and a trip planner with commuting costs attached to the application.<sup>22</sup> Pertaining to verification procedures for commuting costs, ASD’s Director said, they “vet” the amount that is being requested in each application. They look at the application for reasonableness, taking into account the commuting distance and the number of days commuting. However, from this review, we found no resultant calculation or the suggested signature from a

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<sup>22</sup> Any 3<sup>rd</sup> party information regarding the costs of commuting would help to fulfill the verification requirements, e.g., a receipt, ticket stub, or fare card that shows the monthly or daily cost of commuting.

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supervisor or other authority<sup>23</sup> that commuting costs were reviewed for reasonableness (the only signature was for an authorization of the benefit). Moreover, ASD's Director said their analysis did not include telework verification.<sup>24</sup> Very little FLRA guidance is provided for its FTBP and nothing is said about how telework should be computed. Below is an instruction from TRANServe electronic transit application system regarding computation of commuting days for a compressed/flexible work schedule and telework.<sup>25</sup>

Table 1:

<p><b>Always follow your Agency work schedule policy for specific guidance on the Days per Month entry.</b></p> <p><b>Defined work schedule examples:</b></p> <ul style="list-style-type: none"><li>• <b>If you work a Basic schedule of 8-hours per day, the average amount of 20 Days can be entered into the Days per Month column</b></li><li>• <b>If you work a Flex Schedule of 9-hours per day, the average amount of 18 Days can be entered into the Days per Month column</b></li><li>• <b>If you telecommute or work part time, enter the number of days you actually commute to/from work.</b></li></ul>
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### **Other Programmatic Issues:**

#### Participants Not Required to Adjust Benefits Due to Telework/Leave/Travel

OMB internal control requirements ask that agencies verify applications to ensure participants are claiming appropriate travel costs. Included in the verification are that participants' commuting costs/benefits are updated due to travel, and leave,<sup>26</sup> and that employee home address and work address are correct. In addition, TRANServe's MOA calls for annual recertification and recertifications for subsidy rate changes and fare increases.<sup>27</sup> Furthermore, resubmission of applications (recertification's) are needed to adjust not only for anticipated changes to commuting costs, but for participants who have already received excess benefit due to telework, leave, etc., which is usually done through a reduction of the next month's benefit.

For the FTBP, benefits are provided by TRANServe via WMATA's SmarTrip card; they are utilized on a per-trip basis and recovered from WMATA when not used during the month. However, for benefits provided via the TRANServe Debit

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<sup>23</sup> See footnote 8, "Oversight Guidelines for Program Coordinators.

<sup>24</sup> No telework information is requested nor is there an instruction from FLRA on how telework is to be factored into the amount of transit benefit requested. TRANServe's best practices mention that even intermittent telework should be reviewed during routine internal audits (these audits are really just reviews to ensure participants are complying with the various rules).

<sup>25</sup> In addition to these adjustments, all planned absences need to be accounted for in transit benefit requests, e.g., leave, holidays or telework. If actual commuting days in a month are less than anticipated/certified, then refunds should be made to the program- this is done by adjusting the next month's benefit amount.

<sup>26</sup> These are examples of adjustments that show changes in work schedules.

<sup>27</sup> TRANServe Transit Benefit Program Policy and Guidance requires participants to make sure the benefit does not exceed the actual monthly commuting cost.

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Card, benefits are paid directly from the card to the provider at a pre-computed rate, once paid; no funds are available for recovery by TRANServe. Therefore, as discussed above, FTBP payments need to be adjusted. Many of these adjustments are not taking place; our review determined that 51 FTBP participants received an extra \$ 9,222 in Federal transit benefits (due to telework, leave, travel, or similar non commuting activities). This is approximately 5.4 percent of FTBP payments made to participants during the audit period. Included in these numbers are 11 former employees who received benefit overpayments of \$2,042, and from those currently employed, benefit overpayments totaled \$7,180.

FLRA could have avoided paying \$9,222 in benefits to current and former employees by requiring program participants to adjust benefits when they are on recurring telework schedules or on extended leave or attending training.

ASD made the following statements regarding their recertification (including annual recertifications) process: recertifications are not required; employees know they are to update us on changes and we rely on the “honesty principle.” In addition to those comments, it was evident from interactions with ASD, that frequent recertification’s were not wanted due to the paperwork burden on its staff. However, recertification’s (and annual recertification’s) are important to address all the changes to commuting costs that occur in the commuting environment. The recertifications are also an MOA & Internal Revenue Service requirement.

ASD needs to 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 other situation that causes their commuting costs to be less than the amount they are eligible to receive in a given month. Further, ASD should provide instruction on how benefits can be adjusted under the TRANServe program. Lastly, ASD should periodically conduct reviews of all participants to ensure they only collect the benefits they are entitled to receive.

#### Employees Separating the Authority Not Always Removed from TRANServe Database in a Timely Manner and Non-Recapture of Funds

There were 19 former participants<sup>28</sup> who continued to receive approximately \$2,677 in excessive FTBP payments after they separated from service. This is approximately 1.6 percent of FTBP payments made to participants during the audit period. On average, FTBP payments were received by separating employees for approximately 4 months after separation. Some individuals continued to receive benefit payments for as long 14 and 17 months after separation.

We discussed the separation procedures with the Director of the ASD who said that no exit clearance information is provided from the Human Resources

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<sup>28</sup> This includes payments to 1 participant that was on administrative leave for the month prior to separation.

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Division (HRD) and that they monitor e-mail traffic in order to remove people from the FTBP. The Director also said that they monitor the monthly usage reports to determine who should be dropped from the program. However, although HRD may not provide exit clearance forms after a person leaves the agency, we noted that separating employees are required to visit ASD and receive exit clearance signoffs for some of the items it oversees, including the “Transit subsidy balance.”<sup>29</sup> We believe at this visitation point, ASD should remove employees from the transit benefit rolls for the next applicable commuting period and a reimbursement should be sought from any excess transit benefit funds received for the current period. HRD in coordination with BFD should also make efforts to recover the \$2,677 in erroneous benefits collected by participants after they separated from the Authority.

#### Parking Benefits Were Received for TRANServe Debit Card Holders Without Reduction to Transit Benefits

The FTBP does not allow for transit benefits when parking benefits are also being paid. As discussed above, transit benefits provided by TRANServe via WMATA’s SmarTrip card are utilized on a per-trip basis, when a commuter drives to work and utilizes a parking benefit, no transit benefit is received. However, for transit benefits provided via the TRANServe Debit Card, there is no recovery when a commuter drives and utilizes a parking benefit.

Although parking benefits are not routinely available to FLRA staff, an unused Presidential appointee parking space was made available by drawing to FLRA staff on a weekly basis, from January 30, 2017 through the week of November 27, 2017. During this period, two staff members received parking benefits that also utilized the TRANServe Debit Card but no adjustments were made to reduce their transit benefits. The amount of the excess transit benefits resulting from the free parking totaled \$206.50.

HRD in coordination with BFD should seek recovery of the \$206.50 in parking overpayments. ASD should remind transit benefit participants that they are required to reduce transit benefits when commuting costs are less than the amount they are eligible to receive in a given month.

#### Not Utilizing the TRANServe Program to its Fullest

The first obligation listed under the “Agency Responsibilities” in the MOA with TRANServe is that “FLRA shall submit all enrollment applications electronically...” This obligation has not been met. ASD accepts paper applications from participants and provides the needed information to TRANServe, which maintains FLRA’s participant roster. Upon the implementation of direct electronic application and full usage of the

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<sup>29</sup> Although the words, “Transit subsidy balance” are on the Exit Clearance Form, ASD personnel told us that no requests for existing transit subsidy balances or transit subsidy recoveries are made as part of the clearance process.

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TRANServe's system, administering FLRA's FTBP should become much easier to maintain. An enumeration of some of the weaknesses fixed by going electronic includes the following:

- Applications will contain the information that is required by OMB (or a best practice), and that which is needed for proper evaluation/verification of transit benefit requests, including: cost break downs/worksheets; home to work commuting information (it does not require a trip planner (or similar) but that can be requested separately); the false statements warning; the certification statement; proper signatures (in this case the proper clicks of a mouse); and a certification that training has been completed. The application also allows for up to three levels of supervisory review.
- A simpler way to make transit benefit changes for overpayment of benefits from prior months because of transit rate increases, leave, telework, changes in work schedules, travel, funding changes, or changes in commuting methods (or commuting locations), and to make annual recertification's (annual recertification's are required but are not being done).
- Easier handling of employee separations or withdrawals from the program.
- The ability to easily track the processing timeframes.
- Maintenance of current and past user applications for a 3 year period. Also, the program provides direct access to historical and current user reports, as well as a customizable reporting tool.

Aside from making the program more efficient and reducing its cost through more timely benefit reductions,<sup>30</sup> implementation of the program's full electronic functionality will address concerns over funds being spent for which there is little or no benefits. FLRA spent 5.3 percent of its participant requested fare media costs or approximately \$14,355 over the 17 month audit period as management fees to TRANServe, yet utilized very little of its program. Regarding going online, ASD's Director said they considered it, and thought it would probably have been more responsive to the participants but that TRANServe was not very helpful in providing minimal guidelines in setting up the system's rules and other program options.<sup>31</sup> Also, that ASD did not have the manpower to get the system setup. However, had ASD setup the electronic system per the MOA, participants would have been able to change their fare media requests more responsively (as required) and some of the management fee would have been reduced. The management fee based on fare media disbursed was approximately \$5,548 less than what the amount was based on the fare media requested.

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<sup>30</sup> The Federal Election Commission reported, after recently converting to TRANServe's Electronic FTBP stated that, "during the first half of Fiscal Year 2018, FEC has already realized more than \$100,000 in overall transit benefit program cost reductions." Transerve The Best Smart Benefits Option: TRANServe. <https://www.transportation.gov/transerve/best-smartbenefits-option-transerve>. (2018, July, 5).

<sup>31</sup> During the OIG's dealings with TRANServe, we also found them to not be very responsive to our needs, but with FLRA's Information Resource Management Division's assistance they should be able to get the system setup.

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### **Recommendations:**

5. HRD in coordination with the BFD should pursue collection of \$2,677 in erroneous benefits collected by FTBP participants after they separated from the Authority.
6. HRD in coordination with the BFD should seek recovery of \$206.50 in parking overpayments erroneously collected by employees who received both parking and TRANServe benefits.

### **Management's Response**

FLRA management has agreed to work with Department of Treasury Bureau of Fiscal Services Administrative Resource Center (ARC) to determine its options to address recommendations 5 and 6.

### **OIG Comment**

Management's response adequately addresses the intent of our recommendations. See the full text of Management's responses in Appendix 5.

7. ASD in coordination with the Information Resource Management Division should implement the entirety of TRANServe's electronic FTBP and fully comply with all requirements of the TRANServe's MOA and its best practices as discussed in this report.
8. HRD in coordination with ASD should implement a process to ensure that all separated employees, upon exiting, who participated in the transit benefit program, have been promptly removed from TRANServe database and obtain any unused FTBP funds remaining.
9. ASD should develop and implement FLRA FTBP policies applicable to both Smart Benefit users and TRANServe Debit Card holders to include applicable best practices, including evidence of an applicant's transit benefit costs for direct supervisory approval, and FTBP processing time frames.
10. ASD should require participants submit supporting documentation for TRANServe applications and ensure that the application: (a) requires participants to provide a breakdown of commuting costs in accordance with OMB guidelines; and (b) includes a supervisory certification that the application had been reviewed for verification of eligibility and commuting costs.
11. ASD should put in place a process to require participants to annually recertify their eligibility and commuting costs (i.e., complete a new/update transit benefit program application).



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Management's Response

FLRA management concurs with recommendations 7 through 11, and stated they would work with TRANServe to address recommendations 7, 10, and 11.

OIG Comment

Management's response adequately addresses the intent of our recommendations. See the full text of Management's responses in Appendix 5.

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## Appendix 1: Acronyms

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ARC	Administrative Resource Center
ASD	Administrative Services Division
BFD	Budget and Finance Division
DOT	Department of Transportation
EO	Executive Order
FLRA	Federal Labor Relations Authority
FTBP	Federal Transit Benefit Program
FY	Fiscal Year
GAO	Government Accountability Office
HRD	Human Resource Division
IAA	Interagency Agreements
IPAC	Intra-Governmental Payments and Collections
MOA	Memorandum of Agreement
NCR	National Capital Region
OIG	Office of Inspector General
OMB	Office of Management and Budget
TRANServe	Office of Transportation Services
WMATA	Washington Metropolitan Transit Authority

## Appendix 2: Objectives, Scope, and Methodology

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The audit objectives were to determine whether FLRA had adequate policies and procedures (i.e., management controls) in place to ensure compliance with applicable laws, regulations, and other requirements to prevent and detect waste, fraud and abuse in its FTBP.

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

Our audit was conducted at FLRA's offices in Washington, DC<sup>32</sup> during the period from March 26, 2018 through February 11, 2019 and encompassed activity from October 1, 2016<sup>33</sup> through February 28, 2018.<sup>34</sup> We initially conducted preliminary background research of the FTBP to understand why it was developed, how it was supposed to work and to gain familiarity with issues surrounding its operation.

Following our preliminary work, we held an entrance conference and met with some of FLRA's management, the most directly connected to the audit being the Directors for ASD and BFD. The HRD's representative, also directly involved, was not in attendance. At the entrance conference, we discussed the objectives, scope and planned methodology for the audit and answered questions. We also asked each of the aforementioned divisions to provide certain documents that we expected would be in their possession.

Next, we developed questionnaires for ASD and for TRANServe. We met with ASD's Director and had other conversations and/or exchanged e-mails to obtain data from ASD and other divisions. We also contacted TRANServe and scheduled a meeting time to discuss TRANServe's electronic FTBP program and to obtain responses to our questionnaire. TRANServe later cancelled the meeting and asked that we submit any questions in written form. TRANServe provided responses to the questionnaire after about 3 weeks, but many of the responses were inadequate or unresponsive. Resultantly, we filled in the gaps where we could through additional web research.

We contacted BFD about their role in the FTBP and were told that they had no involvement in the FTBP, other than they handled the funding; however, they did provide reports in an electronic format and made requests to TRANServe on our behalf. The reports provided were primarily for participant usage and billing activity. ASD requested various reports from TRANServe and provided electronic copies. However, all the TRANServe reports were password protected and the TRANServe provided password did not work for some of the reports.

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<sup>32</sup> Although the fieldwork was held in Washington, DC, we looked at information for all FLRA regional offices, i.e., Dallas, Atlanta, San Francisco, Chicago, Boston, and Denver. The initial scope of the audit was to include only Washington, DC area commuters but was later approved to include all FLRA participants.

<sup>33</sup> We also included TRANServe disbursements to participants that were made in September 2016 but were used in October 2016.

<sup>34</sup> All available records of activity and payments related to the FTBP were initially under review, but since FLRA obtains refunds for participants using WMATA's SmartBenefits, we continued a 100 percent review of only TRANServe Debit Card holders.

After numerous discussions with different FLRA divisions and TRANServe, TRANServe provided usable reports.

Once we had accessible reports from TRANServe, we attempted to decipher their purpose and details. We asked for some clarification on one of the reports from ASD. ASD requested information from TRANServe but no response was received.

We also compared ASD provided program operating information to program requirements to determine whether FLRA's program was operating efficiently, effectively, economically, and in accordance with polices and regulations.<sup>35</sup>

In addition, to determine specifically whether there were any overpayments of benefits and to determine the amount of those overpayments, we first asked, and HRD provided, time reports from FLRA's WebTA system. The system provided days worked, work type, leave data, and telework data by individual, arranged by pay period and day, e.g., Monday, Tuesday, etc... We arranged and manipulated the system data in excel and provided a date for each day of each pay period for the 17 months (WebTA data is arranged by pay periods and does not correspond to transit benefits, which are paid on a monthly basis). We excluded regular workdays and analyzed the remaining data to determine the number of non-commuting days worked. However, primarily due to fractional day information, we abandoned this procedure and estimated the days worked by month. Then, we asked participants to verify the estimated workday data and provide other information, e.g., fare cost, number of days they used to calculate their benefit, days in travel status, and number of commuting days per month. We also provided the amount of monthly funding on the verification request which we had derived from the TRANServe reports.

Upon receiving the verification responses, we became concerned about the reliability of participant provided commuting days. Resultantly, we re-endeavored to determine the number of commuting days and the amount of benefit overpayments, if any, based upon our previous work, combined with selected data provided from the verification and other sources of information (such as fare information from transit providers). Using the above data from all sources, we were able to reconcile available workdays to the total of regular days, leave, and telework, et cetera, and determine the amount of monthly transit benefits and excess payments.

Lastly, we looked at TRANServe billings and payments made by FRLA to determine if they were in agreement with the MOA, and if there were items within the bill that could be addressed to reduce costs.

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<sup>35</sup> This includes appropriate policies and procedures to thwart fraud, waste or abuse.

## Appendix 3: Certification and Warning Statement

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This certification and warning statement is utilized in TRANServe's online FTBP system.<sup>36</sup>

<b>WARNING !</b>
<p>This certification concerns a matter within the jurisdiction of an agency of the United States. Making a false, fictitious, or fraudulent certification may constitute criminal violations punishable under Title 18, United States Code, Section 1001, by imprisonment up to five years and fines up to \$10,000 for each offense, and/or agency disciplinary actions up to and including dismissal.</p> <ul style="list-style-type: none"><li>- I certify that I am employed by the U.S. Federal Government.</li><li>- I certify that I am not named on a federally subsidized parking permit with any other federal agency.</li><li>- I certify that I am eligible for a public transportation fare benefit, will use it for my daily commute to and from work by public transit or vanpool, and will not give, sell, or transfer it to anyone else.</li><li>- I certify that in any given month, I will not use the Government-provided transit benefit in excess of the statutory limit. If my commuting costs per month on public transit exceed the month statutory limit, then I will supplement those additional costs with my own funds rather than use a Government-provided transit benefit designated for use in a future month.</li><li>- I certify that I will not claim the transit benefit in excess of my actual monthly commuting expense. If at anytime during a given month I am out of work due to sickness, vacation or any other reason, on official travel, or use a private vehicle for commuting, I will claim less and adjust the amount of my transit benefit the following month if appropriate.</li><li>- I certify that my parking fees are not included in the computation of the daily, weekly or monthly commuting costs for my transit benefit.</li></ul>
<input type="button" value="I Agree"/> <input type="button" value="I Do Not Agree"/>

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<sup>36</sup> TRANServe (A Division of the U.S. Department of Transportation), Business in Motion, Transit Benefit Program Application System, Approver, User Guide (2017, September 8).

## Appendix 4: Sample Transit Benefit Commuting Expense Worksheet<sup>39</sup>

DOT Transit Benefits Verification Work Sheet								
All DOT employees are required to certify their monthly commuting costs by calculating to the nearest dollar for their <u>daily commute</u> to work. This work sheet must be completed by June 30, 2007 to continue receipt of transit benefits.								
<b>Employees are reminded that parking fees are not eligible for transit benefits and should not be included when computing daily, weekly or monthly commuting costs.</b>								
<b>Instructions:</b> Calculate your <u>Total Monthly Mass Transit Expenses</u> based on the way (daily, weekly, monthly) that you pay for your commute. List your mode of mass transportation; and how much it costs you. All costs must be computed to a monthly expense.								
Mode of Transportation			Daily Expense	Weekly Expense	Total Monthly Expense			
<b>Bus to Work</b> (local)		Name of Company	\$	\$	\$			
<b>Bus to Work</b> (local)		Name of Company	\$	\$	\$			
<b>Other Bus Mode to Work</b> (commuter or county)		Name of Company	\$	\$	\$			
<b>Other Bus Mode from Work</b> (commuter or county)		Name of Company	\$	\$	\$			
<b>Rail to Work</b> (MARC, VRE, Metro, other)		Name of Company	\$	\$	\$			
<b>Rail from Work</b> (MARC, VRE, Metro, other)		Name of Company	\$	\$	\$			
Other Mode to Work:		Name of Company	\$	\$	\$			
Other Mode to Work:		Name of Company	\$	\$	\$			
<b>Van Pool</b>		Name of Company			\$			
Converting Daily and Weekly Cost to Monthly Cost								
<b>40-hour workweek and compressed workweek</b>								
<b>8-hour work day conversion</b>			<b>9-hour work day conversion</b>			<b>10-hour work day conversion</b>		
Daily Cost	No. Days Worked x 20	Total Monthly cost \$	Daily Cost \$	No. Days Worked x 18	Total Monthly cost \$	Daily Cost	No. Days Worked x 16	Total Monthly cost \$
<b>Other Work Schedule Conversions</b> (telecommuters, part-time, maxi flex, etc.)				<b>Weekly Work Schedule Conversions</b>				
Daily Cost \$	Number of commute days per month x no. days _____	Total Monthly Cost \$	Weekly Cost \$	Number of weeks per month x 4	Total Monthly Cost \$			
Employees are responsible for adjusting their monthly transit benefits each month in accordance with their actual work commute each month.						<b>Total Monthly Costs: \$</b>		
Printed Name of Employee:			Signature of Employee:			Date:		
Supervisors are required to verify and approve their employee's eligibility to participate in the program and the amount of their transit benefit. Supervisors are also responsible for ensuring that employees are aware of the transit benefits rules prior to certification.								

<sup>39</sup>DOT. Sample Transit Benefit Commuting Expense Worksheet, <https://www.transportation.gov/sites/dot.gov/files/docs/Sample%20Transit%20Benefit%20Commuting%20Expense%20Work%20Sheet.doc>



UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**

March 1, 2019

**MEMORANDUM**

TO: Dana Rooney  
Inspector General

FROM: William Tosick  
Executive Director

SUBJECT: Management Response to the Draft Report AR-19-04 - Audit of Federal Labor Relations Authority's Federal Transit Benefit Program

The purpose of this memorandum is to provide management response regarding the audit recommendations pertaining to the Federal Labor Relations Authority's (FLRA) Federal Transit Benefit Program (FTPB). The recommendations are addressed separately below. I personally reviewed the audit findings and recommendations, and the Office of the Executive Director looks forward to collaborating with your office as we work to strengthen the management controls addressed in this audit.

**Recommendation 1.**

Adapt and implement TRANServe's Integrity Awareness Training for all new Federal transit benefit applicants and require participants take training annually prior to the annual recertification.

**Management Response:** FLRA concurs with the recommendation and will work with Department of Transportation Office of Transportation Services (TRANServe) to address.

**Recommendation 2.**

Obtain and retain all reports available from TRANServe, to be held electronically on FLRA servers with appropriate backup for a 3 year period following the end of the year, and for each year thereafter.

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

**Recommendation 3.**

Obtain data definitions for all report fields for which there is any ambiguity as to their meaning, and obtain all data definitions for the "Quarterly Agency Total's Report" field headers.

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

**Recommendation 4.**

Require participants to submit applications and changes in commuting costs through TRANServe's electronic platform.

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

**Recommendation 5.**

The Human Resources Division (HRD), in coordination with the Budget and Finance Division (BFD) should pursue collection of \$2,677 in erroneous benefits collected by FTBP participants after they separated from the Authority.

**Management Response:** FLRA will work with the Department of Treasury Bureau of Fiscal Services Administrative Resource Center (ARC) to determine options to address.

**Recommendation 6.**

HRD in coordination with the Budget and Finance Division should seek recovery of \$206.50 in parking overpayments erroneously collected by employees who received both parking and TRANServe benefits.

**Management Response:** FLRA will work with ARC to determine options to address.

**Recommendation 7.**

ASD, in coordination with the Information Resource Management Division, should implement the entirety of TRANServe's electronic FTBP and fully comply with all requirements of the TRANServe's MOA and its best practices as discussed in this report.

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

**Recommendation 8.**

HRD in coordination with ASD should implement a process to ensure that all separated employees, upon exiting, who participated in the transit benefit program, have been promptly removed from TRANServe database and obtain any unused FTBP funds remaining.

**Management Response:** FLRA concurs with the recommendation.



**Recommendation 9.**

ASD should develop and implement FLRA FTBP policies applicable to both Smart Benefit users and TRANServe Debit Card holders to include applicable best practices, including evidence of an applicant's transit benefit costs for direct supervisory approval, and FTBP processing time frames.

**Management Response:** FLRA concurs with the recommendation.

**Recommendation 10.**

ASD should require participants submit supporting documentation for TRANServe applications and ensure that the application: (a) requires participants to provide a breakdown of commuting costs in accordance with OMB guidelines; and (b) includes a supervisory certification that the application had been reviewed for verification of eligibility and commuting costs.

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

**Recommendation 11.**

ASD should put in place a process to require participants to annually recertify their eligibility and commuting costs (i.e., complete a new/update transit benefit program application).

**Management Response:** FLRA concurs with the recommendation and will work with TRANServe to address.

## **Appendix 6: Report Distribution**

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### **Federal Labor Relations Authority**

Ernest DuBester, Member

James Abbott, Member

William Tosick, Executive Director

Michael Jeffries, Director Information Resource Management Division

Xavier Storr, Director Administrative Services Division

Paula Chandler, Director Human Resource Division

Gregory Mister, Budget and Finance Division

# CONTACTING THE OFFICE OF INSPECTOR GENERAL

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CALL: (202)218-7970 FAX: (202)343-1072  
WRITE TO: 1400 K Street, N.W. Suite 250, Washington,  
D.C. 20424

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Office of Inspector General

Audit of the FLRA's Federal  
Transit Benefit Program