



Office of the Inspector General

Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

Guide to Administering and Complying with Vehicle Management Policies

December 2004



The Commonwealth of Massachusetts
Office of the Inspector General

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Dear Public Official:

During the past few years, municipal budgets have become harder to balance because of revenue and local aid decreases. Consequently, the use of municipal vehicles has come under close scrutiny. Vehicle use policies became topics of discussion at town meetings, city council meetings, and meetings of other governing bodies. In many cases, municipalities discovered that they had inadequate or non-existent policies, regulations, or guidelines to govern the use of municipal vehicles.

This guide is a resource for those municipalities that need to develop policies for fleet administration or who wish to re-examine their current policies. Adequate policies governing the use of vehicles and fleet administration is the first step in preventing the misuse of municipal vehicles and helps to ensure that public funds are being spent wisely. The following misuses of municipal vehicles may occur:

- Use of vehicle for other than official state business;
- Use of vehicle without a valid driver's license;
- Lack of proper vehicle identification and documentation;
- Misrepresentation of vehicle use on official documents;
- Unauthorized overnight travel;
- Unauthorized out-of-state travel;
- Failure to maintain vehicles in accordance with municipal policies and procedures;
- Failure to obey state and local traffic and parking regulations;
- Failure to pay state and federal taxes on fringe benefit income.

Operating a municipal vehicle is a privilege and should be treated as such. Misuse of this privilege should not be tolerated by municipal officials. We hope this guide assists local officials in identifying potential problems and acting to prevent problems before they occur.

Sincerely,

A handwritten signature in cursive script that reads "Gregory W. Sullivan".

Gregory W. Sullivan
Inspector General

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Section One: Administrative Guidelines

Declaration of Need

Before developing a vehicle policy, a jurisdiction should identify its vehicle needs and determine the status of its vehicle inventory. The jurisdiction should also review the assignment of vehicles. This will help determine the scope of the intended vehicle policy. If a need is identified, procurement or lease of a vehicle and pertinent services, such as maintenance contracts and insurance, should be done in compliance with the acquisition guidelines of Massachusetts General Law (M.G.L.) Chapter 30B.

Fleet Administrator

Each municipality that leases or owns more than one vehicle for general use (excluding vehicles for specific use such as police cruisers, street sweepers, etc.)¹ should designate an employee responsible for fleet administration. The fleet administrator is responsible for all municipal vehicles not intended for a specific purpose. However, municipalities with only a few vehicles may want to extend the fleet administrator's role to all government vehicles including special purpose vehicles. Responsibilities of the fleet administrator include monitoring vehicle use, ensuring vehicle maintenance, insuring, inspecting, and registering vehicle, and informing employees on the proper use of municipal vehicles in compliance with applicable tax policies.

Maintenance and Repair

The fleet administrator should maintain a maintenance and repair log for each vehicle. These records are subject to the public records law and should be treated as such. It is important to keep vehicles in service and to maintain vehicle warranties. The

¹ Large municipal departments or agencies that maintain special purpose vehicles such as police and fire vehicles should have their own vehicle policies, fleet administrator, and internal controls. Special purpose vehicles should not be exempt from the practices outlined in this guide.

administrator should keep vehicles on a repair and maintenance schedule. The schedule should include, but not be limited to, the following services:

- Lube, oil, and filter change (every three thousand miles);
- Brake inspection (once annually);
- Tire rotation and balance (twice annually);
- Emission service (15,000 miles/or annually), and
- Engine performance service (15,000 miles/or annually).

The administrator should also work with the jurisdictions purchasing official to ensure that vehicle maintenance and repairs are procured according to state and local laws and regulations.

Other Duties

The fleet administrator is also responsible for the following:

- Ensuring that motor vehicle violations and parking tickets, incurred by employees while operating fleet vehicles, are promptly dealt with. The employee should pay for all fines and violations. The administrator is responsible for ensuring that these violations do not impact driver or vehicle status.
- Approving all requests for vehicle assignment.
- Maintaining records of approval to use vehicles for commuting, 24-hour use, out-of-state travel, garaging vehicles at a home, and other approvals. Note: The jurisdiction's governing body should review all requests for the special use of vehicles and grant their approval. Approvals should be subject to renewal on an annual basis.
- Obtaining signed statements from operators that they understand the vehicle policy.
- Obtaining signed statements from operators that they, where applicable, are in compliance with all tax laws.

Fueling Vehicles

Jurisdictions should establish a method for operators to obtain fuel for their assigned vehicles. Some jurisdictions will obtain bids from local gas stations, enroll in a fuel card program, provide credit cards, or offer reimbursement to operators. All methods are effective in that they meet the goal of refueling vehicles. However, when operators are authorized to purchase fuel and be reimbursed, a paper trail is required. This same system should be in place when employees use personal vehicles for business use and receive reimbursement for expenses.

Adequate internal controls should include a process to verify receipts and fuel purchases. The fleet administrator may opt to defer this accounting to the jurisdiction's accounting staff. Internal controls should be in place no matter who reconciles purchases.

Some jurisdictions provide employees who use vehicles regularly with a monthly allowance. The employee must provide receipts to verify expenditures from this allowance and the fleet administrator or other staff reconciles these expenses.

Fringe Benefits

The use of an employer-owned vehicle may constitute a fringe benefit for state and federal tax purposes. Regular commuting home-to-work mileage must be accurately reported to the Internal Revenue Service as fringe benefit income. The fleet administrator should consult with the jurisdictions payroll department to determine which employees should have fringe benefit income. For example, employees who have used an employer-provided vehicle to commute a minimum of fifteen one-way trips, either as a driver or a passenger, at any time during the calendar year may be subject to fringe benefit income. The jurisdiction should consult Internal Revenue Service and Massachusetts Department of Revenue regulations [See Appendix A].

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Section Two: Operator Responsibilities

Vehicle policies should, at a minimum, include the following guidelines for vehicle operators. These suggestions have been gathered from a variety of sources². Some are basic and straightforward. Others require the fleet administrator to develop detailed procedures. Once prepared, vehicle policies should be distributed to all employees who are or may be assigned a vehicle.

- 1) Operators should read and understand the applicable policies and conditions related to vehicle use.
- 2) Assigned vehicles are for official use only.
- 3) Operators should exercise sound judgement at all times when using assigned vehicles and should avoid the appearance of misuse. Vehicles should not be: used for personal use, used to transport non-employees, or used by anyone not assigned to the vehicle. Vehicles should not be used during non-business hours. Note: Some jurisdictions allow for “incidental personal use” such as stopping to grocery shop while on the way home but only if the stop does not add mileage to the trip. This is a decision a jurisdiction needs to make when developing the vehicle policy.

The Massachusetts Ethics Code discusses unwarranted privileges. Using public equipment or resources for personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned vehicle is an ethics violation.

- 4) Operators must obey all state and local traffic and parking laws. The policy should indicate how these violations could lead to a loss or suspension of vehicle privileges. Note: Some jurisdictions recommend that employees take driver training when their privileges are suspended.

² Two sources are the Commonwealth of Massachusetts Office of Vehicle Management *Policies and Procedures Manual* available at (www.mass.gov/osd) and the United States General Services Administration *GSA Internal Motor Vehicle Management Manual* available at (www.gsa.gov).

- 5) Operators must have a valid drivers license of the appropriate class. Operators have an obligation to report any changes in license status to the fleet administrator. Note: Some jurisdictions require a periodic license check. A recent audit report in New York City found that 12 percent of employees who used government vehicles did not have valid licenses and that 27 percent had a poor enough driving records to disqualify them from using government vehicles.

Operators must carry a valid license and a government issued identification whenever using an assigned vehicle.

- 6) Operators are solely responsible for the consequences of any violations, such as parking or speeding tickets.
- 7) Operators and their passengers must use seat belts when traveling in publicly owned vehicles or when using personal vehicles for business. This is to protect the jurisdiction from liability and legal issues.
- 8) Operators should not operate vehicles under the influence of alcohol or any illegal substance. The operator will lose all privileges to operate a vehicle if convicted of driving under the influence.
- 9) Operators must report all vehicular accidents to the fleet administrator and complete all accident reports required by the fleet administrator. If an employee is using a personal vehicle for business (approved by appropriate management), the employee must maintain the necessary levels of automobile insurance required by the vehicle policy.

In the case of an accident involving an employee's personal vehicle, the fleet administrator or other official should determine if the accident occurred in the line of duty. The administrator can then recommend that the employee be reimbursed for any vehicle repairs or for any insurance deductible.

When an accident occurs, the operator must:

- a) Stop the vehicle;

- b) Obtain the:
 - i. Name(s) and address(es) of the other drivers;
 - ii. Name(s) and address(es) of the owner(s);
 - iii. Registration number(s) of the other vehicle(s) involved;
 - iv. Name(s) and address(es) of other driver(s) insurance company(ies); and
 - v. Name(s) and address(es) of any witness(es) to the accident.
- c) Not admit liability for the accident, even if the employee believes it was their fault.
- d) Immediately report details to the employee's immediate supervisor and the fleet administrator.
- e) When any person has been injured and/or when vehicles have suffered significant damage, the local or state police must be called to the scene.
- f) Do not move the vehicle in these circumstances until authorized by the police.

10) Smoking is not permitted in assigned vehicles. Note: Federal and state government vehicle regulations prohibit smoking.

11) Operators are responsible for the cleanliness of assigned vehicles.

12) Operators should safeguard vehicles at all times. Operators should never leave vehicles unattended with the ignition key in the lock or anywhere in the vehicle. The operator should also ensure that when away from the vehicle the vehicle is locked. The employer is not responsible for the loss of any personal property while using an assigned vehicle.

- 13) Operators must report all needed repairs or other vehicle problems to the fleet administrator.

- 14) Job titles of operators assigned vehicles on a regular 24-hour basis should be listed in the policy. This assignment should be initiated through a process outlined in the vehicle policy. The need for this assignment should be justified in writing and approved by the jurisdictions governing body. Policies should also outline if and how an employee will be reimbursed for travel expenses when assigned a 24-hour vehicle. For example, if an employee's domicile is more than a certain mileage from the employee's place of business, will the employee be reimbursed for mileage between home and business?

- 15) Operators should refrain from using cell phones while driving an assigned vehicle. Some jurisdictions have cell phone policies that prohibit use while operating the assigned vehicle.

- 16) Upon assignment of a vehicle, the operator is responsible for ensuring that the vehicle contains the equipment it is supposed to have. For example, a spare tire, first aid kit, etc. The employee assumes responsibility for these items when he/she accepts assignment of the vehicle. The fleet administrator should prepare a list of items that should remain with the vehicle.

- 17) Upon assignment of a vehicle, the operator is responsible for ensuring that the vehicle contains all required documentation. The operator should verify that the vehicle contains the following documents:
 - a) The vehicle registration;
 - b) Authorization for vehicle use;
 - c) Blank accident reports;
 - d) Vehicle's owner manual;
 - e) Vehicle service maintenance card (if applicable);
 - f) Fuel card (if applicable);
 - g) A copy of an approved out-of-state travel form (if applicable), and
 - h) A driver's log.

The driver's log should be maintained by whoever is assigned to the vehicle³. The driver log for each trip must include:

- i. Start date and time;
- ii. End date and time;
- iii. Odometer reading start;
- iv. Odometer reading end;
- v. Beginning location;
- vi. Destination, and
- vii. Driver name.

This information is subject to the public records law. The fleet administrator should maintain all logs for reference and audit purposes.

³ Technology exists to record ignition starts, time, date, distance traveled, and speeds traveled on devices with computer chips. These devices have been compared to the flight recorders on commercial aircraft. Some jurisdictions may wish to consider using this technology for bookkeeping purposes.

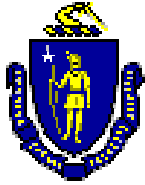
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APPENDIX A

The source for Appendix A is:

Commonwealth of Massachusetts Office of Vehicle Management Policies and Procedures Manual, Eric A. Kriss, Secretary, Philmore Anderson III, State Purchasing Agent, and Ellen L. Phillips, Deputy State Purchasing Agent, pp. 23-25.

The entire manual is available at <http://www.mass.gov/osd>



**The Commonwealth of Massachusetts
Executive Office for Administration and Finance
Operational Services Division
One Ashburton Place, Boston, MA 02108-1552**



**TO: Fleet Administrators, Payroll Directors and
All State Employees in Employer-Provided Vehicles**

**FROM: Herbert Faulconer, Fleet Administrator
Office of Vehicle Management, Operational Services Division**

DATE: October 15, 2003

**RE: Required Fringe Benefit Tax Reporting for Tax Year 2003
Employee Use of Commonwealth Provided Vehicle**

Federal and State Law requires employers, including the Commonwealth, to include "Fringe Benefit Income" on annual W-2 forms submitted to the Internal Revenue Service (IRS) and Department of Revenue (DOR) for each employee. Such fringe benefit income includes an employee's use of an employer-provided vehicle for business purposes which is also used for commuting. The IRS regulations on this topic are extensive. The primary provisions are found in Federal Payroll Tax Laws and Regulations, United States Code, Title 26 Internal Revenue Code, Code 61 Reg. 1.61-21(f)(3). Pertinent definitions are listed at the end of this memo.

Please note that the IRS rules require employees to maintain adequate records to substantiate their use of an employer-provided vehicle. While it is the Commonwealth's duty to report usage of Commonwealth provided vehicles by employees to the IRS; disputes concerning the correct computation or verification of commuting use are between the taxpayer and the IRS. It is assumed that this requirement will continue, and you are urged to maintain accurate records for tax year 2004.

In an effort to issue a single, complete and correct W2 for tax year 2003 through the state payroll system, HR/CMS, non-cash benefits such as the use of a Commonwealth provided vehicle for business and commuting purposes will be included in an employee's taxable gross income and reported together with regular wages on the W-2.

Fringe benefits must be added to an employee's federal and state taxable gross income and are subject to federal and state income tax withholding and Medicare taxes. Non-cash fringe benefits are added to Federal taxable gross (Box 1) and state taxable gross (Box 16). Non-cash fringe benefits included in Box 1 are summarized in Box 14. The Commonwealth annually reports employee use of Commonwealth motor vehicles for commuting using the period from November through October. Reporting for tax year 2003 will be November 1, 2002 through October 31, 2003.

Employees Commuting 15 or Less Times During November 1, 2002-October 31, 2003.

The IRS rules provide for the exclusion of fringe benefits that have so small a value that accounting for them would be administratively impractical ("De Minimis Fringe"). For the purposes of this memo, employees who commute in Commonwealth-provided vehicles must report only if they have had 15 or more commutes during the period from November 1, 2002 through October 31, 2003.

Employee Reporting Responsibilities

1. Any employee who received the fringe benefit of the use of a Commonwealth-provided vehicle for business use and commuting, should list the number of commutes made in employer-provided vehicles in PART A of the attached "**CERTIFICATION OF EMPLOYEE MOTOR VEHICLE USE - FORM OVM IRS**". The number of **one-way** commutes you have made in employer-provided vehicles will be multiplied by \$1.50. Your W-2 will reflect this amount.
2. If some or all of your commutes in a Commonwealth-provided vehicle(s) were eligible for the exemptions described under the Definitions Section you should complete PART B of the Certification Form. Please describe in detail the factors that make the exemption applicable, so that OVM can confirm its validity.
3. For those few individuals that have been granted waivers to continue domicile privileges, their income as reported to the IRS will reflect the \$1.50 commute per commute for 249 days, unless the signed certification indicates a different number of commutes.
4. *******The completed and executed Certification Form (PART A and B) must be returned to your Department's Payroll Director NO LATER THAN November 25, 2003.**

FAILURE TO RETURN THIS CERTIFICATION FORM BY THE DEADLINE WILL AFFECT YOUR INCOME AS REPORTED TO THE IRS FOR 2003.

Department Processing and Reporting Requirements

Departments are responsible for the processing of tax reporting for employees receiving the fringe benefit of the use of a Commonwealth-provided vehicle for business use and commuting.

1. The Fleet Administrator must distribute the attached "**CERTIFICATION OF EMPLOYEE MOTOR VEHICLE USE - FORM OVM IRS**" to any employee who has been provided with use of a Commonwealth provided vehicle between November 1, 2002 through October 31, 2003. The Fleet Administrator should immediately forward the completed forms to their Payroll Director for processing.
2. The Fleet Administrator must list any employee who has used a Commonwealth-provided vehicle for business use and commuting at any time during November 1, 2002 through October 31, 2003 in "**PART C - Summary**" on the attached "**SUMMARY CERTIFICATION FOR DEPARTMENT OF EMPLOYEE MOTOR VEHICLE USE**."
3. Department Fleet Administrator must complete the attached Summary Certification, PART C, and return it to the Office of Vehicle Management (OVM) NO LATER THAN November 25, 2003. OVM will review this earnings code in the warehouse for department compliance.
4. Data entry may begin November 17, 2003 for the pay period ending November 29, 2003.
5. All employees who received the non-cash fringe benefit of use of a Commonwealth provided vehicle for business and commuting must have their payroll records updated by the payroll period ending December 13, 2003.

Definitions

Commuting Use Income: Federal Statutes and regulations require the attribution of income to employees for each commute made in an (NON-EXEMPT) employer-provided motor vehicle. The meaning of each of these terms is explained below.

The IRS permits employers to select any of several methods for valuing employee use of employer-provided vehicles. The Commonwealth has again chosen to use the method that applies a flat rate of \$1.50 per **one-way** commute, since this will be the simplest and most advantageous approach in the vast majority of cases.

Commute: Under the IRS rules, a “commute” is a trip, one end of which is at your home, and the other end of which is at a work site located in the area where you ordinarily work. When the work site to which you travel is outside the area where you ordinarily work, the IRS regards your travel as a business trip, not a commute, subject to fringe benefit treatment.

Thus, to count your commutes, you must first identify the area where you ordinarily work, then, anytime that you set out from home and travel to a work site in that area, you have commuted. Each trip to or from your home counts as a commute. So, if you go to work and return home again, you have made two one-way commutes.

Employer-Provided Vehicle: The IRS rules attributes income to you for any commute that you made in a vehicle made available to you in connection with your employment. Specially, you must count commutes, not only when you were a driver, but also when you were a passenger in an employer-provided vehicle (whether or not the driver also counts the same trip as a commute). And you must count commutes, not only in Commonwealth-owned vehicles, but also in vehicles leased to the Commonwealth or provided to you by a contractor in connection with your state employment.

The IRS rules provide exemptions for commutes made in certain narrowly defined classes of “Qualified Non-Personal use vehicles”. Two specific components of this exemption are noteworthy (see 26 CFR 1.274-5T (K)).

Law Enforcement and Fire Vehicles-Clearly Marked (exemption): Police and fire vehicles are exempt, when a police officer or a fire fighter is required to commute in them, so that he/she can be on call outside his/her regular shift. In addition, unmarked law enforcement vehicles are exempt when used in fulfilling a law enforcement responsibility by an individual meeting a three-part definition of law enforcement officer (employed full-time by a law enforcement agency; authorized to carry a gun, execute warrants, and make arrests and; ordinarily carries a firearm).

Vehicle Unsuitable for Personal Use (exemption): Vehicles, which, because of their design and construction, are unlikely to be used to any significant extent for personal purposes are exempt. The regulation lists the types of vehicles, such as garbage trucks, tractors, and flatbed trucks, covered by this exemption. **The regulation specifically states that pickup trucks and vans are not exempt. Cab lights, two-way radios and custom paint do not modify a vehicle beyond personal use.**

OVM recognizes that the IRS rules on this subject are complex and that this memo can only offer general guidance that cannot cover every individual situation. If you do not understand how this rules apply to you or if you have any questions, please feel free to call Mary Paris at OVM, (617)-720-3306. You may also wish to consult with your tax preparer.

Philmore Anderson, Purchasing Agent
Ellen Phillips, Deputy Purchasing Agent
Mary Paris, OSD
Kathy Sheppard, Director, Payees, Payments & Tax Reporting
Michael Weld, Director Payroll and Procurement
James Box, OSC