

MassDOT and MBTA Parking Benefits

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Internal Special Audit Unit
Office of the Inspector General
Commonwealth of Massachusetts

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Scope and Objectives

In response to a referral from senior management at the Massachusetts Department of Transportation (MassDOT), the Internal Special Audit Unit (ISAU) conducted a review of parking benefits provided to MassDOT and the Massachusetts Bay Transit Authority (MBTA) employees to determine whether complimentary parking benefits are distributed equitably, are in accordance with established policies and are a fiscally responsible use of MassDOT and MBTA funds. Our methodology included interviews with process owners, data analytics procedures and examinations of relevant reports.

Summary of Results

Our review found that parking benefits are not distributed equitably, fringe benefit tax reporting is inaccurate, and complimentary parking may not be the most efficient and appropriate use of funds. Examples include unjustified parking, underutilized parking and an overall lack of a central approval process. Specifically, we found:

- Non-compliance with federal tax laws associated with fringe benefits provided to MassDOT and MBTA employees
- Outdated federal exclusion limit used by MassDOT Payroll to calculate applicable employee taxable fringe benefits
- Inaccurate basis for determining taxable fringe benefits
- Parking and rent expenses paid for using capital funds
- Multiple parking passes that are not being used regularly
- Non-employees receiving daily parking privileges
- MassDOT official state vehicles used for daily commuting
- Unjustified parking assignments
- Lack of a formal parking benefit policy or approval process

Details of each issue are provided in the Findings section of this report.

Background

1. City Place Garage

The Massachusetts State Transportation building located at 10 Park Plaza in Boston is owned and operated by the Massachusetts Division of Capital Asset Management and Maintenance (DCAMM). DCAMM leases office, retail and garage space to various tenants, including MassDOT and the MBTA. The City Place parking garage is in the lower levels of the State Transportation building and is operated by Pilgrim Parking.

MassDOT and the MBTA have a combined 190 parking garage spaces as part of their 5-year lease agreements with DCAMM in effect from July 1, 2010 to June 30, 2015. The spaces are divided as follows:

Agency	# of Access Cards	Annual Cost
MassDOT	135	\$ 205,740
MBTA	55	\$ 87,540
Total	190	\$ 293,280

BACKGROUND

- 1 City Place Garage
- 2 Kneeland Street Parking
- 3 Parking Program Administration
- 4 Internal Special Audit Unit

HIGHLIGHTS...

The MBTA has not paid rent or parking fees totaling \$3.4 million at the 10 Park Plaza location since June 2012. DCAMM waived these fees effective July 1, 2012.

MassDOT pays a monthly rental fee to DCAMM for parking, as specified in the lease agreement¹. Rent and parking fees for the MBTA have been waived by DCAMM for Fiscal Year 2013 and thus far in Fiscal Year 2014. DCAMM charges MassDOT a significantly reduced parking rate, less than 50% of the market rate for public parking at the City Place Garage.

2. Kneeland Street Parking

MassDOT also has a parking facility located at 185 Kneeland Street in Boston, that is used primarily by the Highway Division's District 6 office. This property includes a parking lot with space for 157 vehicles. Currently, 131 employees are provided with complimentary parking in the Kneeland Street parking lot. The remaining 26 spaces are used by motor pool vehicles, or are vacant.

¹ See Appendix A for details of monthly parking costs.

3. Parking Program Administration

MassDOT General Services and MBTA Facilities Management administer parking passes for the City Place Garage. General Services and Facilities Management maintain and distribute parking passes, keep records of parking pass assignments, and act as the liaison between MassDOT/MBTA employees and City Place Garage Management. General Services and Facilities Management do not participate in the assignment or approval of passes except for the four passes assigned to General Services employees, and for motor pool vehicles. General Services and Facilities Management only facilitate requests once passes are assigned. Currently, there is no formal, written MassDOT or MBTA policy in place for assignment of parking passes to employees.

4. Internal Special Audit Unit

The Internal Special Audit Unit (ISAU) was established by the Massachusetts Legislature (M.G.L. c. 6C, § 9) as an independent unit responsible for monitoring the quality, efficiency and integrity of MassDOT's operating and capital programs and seeking to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds. By statute, the ISAU's responsibilities are defined by the Inspector General Council as part of its oversight role.

The ISAU's scope encompasses, but is not limited to, (1) monitoring the quality, efficiency and integrity of MassDOT's operating and capital programs; (2) seeking to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds; and (3) examining and evaluating the adequacy and effectiveness of MassDOT's operations, including its governance, risk management practices, and internal processes.

Findings

1. Non-compliance with Federal Tax Laws

FINDINGS

- 1** Non-compliance with Federal Tax Laws
- 2** Complimentary Employee Parking Costs Expensed as MassDOT Capital Expenditures
- 3** Underutilized Parking
- 4** Non-employees Provided with Parking
- 5** Use of Official State Vehicles for Daily Commuting
- 6** Unjustified Parking Assignments
- 7** Lack of a Formal Parking Benefit Policy or Approval Process

MassDOT Payroll has not calculated or reported taxable fringe benefits for the 131 employees who receive complimentary parking at the Kneeland Street lot. According to Internal Revenue Service (IRS) Publication 15-B (2013), “Employer’s Tax Guide to Fringe Benefits,” a fringe benefit is defined as a form of pay for the performance of services. This includes a “qualified parking benefit,” which is defined as parking provided to employees on or near the business premises. It includes parking on or near the location from which employees commute to work using mass transit, commuter highway vehicles, or carpools, but does not include parking at or near an employee's home. The 2013 federal exclusion amount for qualified parking is \$245. If the fair market value of the fringe benefit provided to an employee exceeds the exclusion, the excess is considered a taxable fringe benefit; it must be included in ordinary income, and must be reported to the IRS and the Massachusetts Department of Revenue (DOR).

The ISAU conducted an analysis of the taxable fringe benefit amount that MassDOT Payroll and MBTA Payroll reported and used as a basis for withholding bi-weekly taxes. Using an average fair market value of \$400 per month based on two neighboring garages, an estimated \$968,000 of taxable fringe benefits were not calculated and amounts were not reported to the IRS and DOR

An estimated \$968,000 in fringe benefits provided to employees were not calculated and taxable amounts were not reported to the IRS and DOR.

Year	# of Employees	Fair Market Value	Fringe Benefit not Reported
2010	131	400	\$267,240
2011	131	400	\$267,240
2012	131	400	\$251,520
2013 ²	131	400	\$182,745
Total			\$968,745

² Year-to-date.

from 2010 to year-to-date 2013³. Therefore, employees have not paid any taxes associated with this fringe benefit.

For the 38 MBTA employees who have parking privileges in the City Place Garage, current and prior fringe benefit income calculated by MBTA Payroll is inaccurate. MBTA Payroll has not updated its basis for determining the taxable fringe benefit amount since 2006, and was unable to provide any support to substantiate the basis currently in use. MBTA Payroll uses a net annual taxable fringe benefit amount of \$780 per employee. Using \$315 as the current fair market value of City Place monthly parking⁴ less the \$245 federal exclusion amount, the actual annual fringe benefit amount that MBTA Payroll should be using in 2013 is \$840 per employee. This ultimately results in underreporting of taxable fringe benefit income to the IRS and DOR of approximately \$2,280 in 2013 or total \$34,200 for the tax years 2008-2013. Since this review, MBTA Payroll has updated its basis for determining taxable fringe benefits associated with employee parking at City Place.

MBTA Payroll has not updated its basis for determining taxable fringe benefits since 2006.

*MBTA Payroll has been underreporting taxable fringe benefits of employees of approximately **\$34,000**.*

MassDOT Payroll is using an outdated federal exclusion limit in calculating 2013 taxable fringe benefit amount.

Currently, MassDOT Payroll is using an outdated federal exclusion amount of \$240 to determine the 2013 taxable fringe benefit amount for the 66 employees with parking benefits. Therefore, MassDOT employees overpaid taxes in 2013 in the amount of \$3,960.⁵

2. Complimentary Employee Parking Costs Expensed as MassDOT Capital Expenditures

MassDOT pays for its monthly rent and employee parking costs at 10 Park Plaza using capital funding, as opposed to funding allocated for operational expenses. While this is a common government practice, using borrowed funds to pay for operational expenses results in increased costs to the Commonwealth. The

³ Using a 2012 federal exclusion limit of \$240 per month, and \$230 per month in 2011 and 2010. The fair market value was determined by taking an average of the South Station Garage monthly rate of \$375 and the LAZ 745 Atlantic Avenue garage monthly rate of \$425. Also assuming 131 employees each year.

⁴ \$315 is the 2013 rate used by MassDOT Payroll for calculating fair market value of the City Place parking benefit. This is based on a survey of neighboring garages.

⁵ Amount annualized for 2013.

*During its 5-year lease term, MassDOT will spend over **\$25 million** in capital funds for the purpose of paying rent and parking at the 10 Park Plaza location.*

Capital Budget is funded primarily through the issuance of debt; therefore, for every dollar MassDOT borrows to fund employee parking costs and rental expense, the Commonwealth will end up paying \$1.75 in principle and interest over 25 years. During the five year lease term of Fiscal Year 2011 through Fiscal Year 2015, MassDOT will have spent over \$25 million in capital funds for the purpose of paying rent and parking at the 10 Park Plaza location.

The MassDOT Capital Budget is intended to fund the construction and maintenance of major public assets. Typical capital expenditures include construction and maintenance of roads, bridges and airports, as well as reinvestment in major enterprise Information Technology systems. Using capital funding to provide complimentary employee parking costs and pay rent expense reduces the amount of funding available for legitimate capital projects.

3. Underutilized Parking

*MassDOT spends over **\$29,000** each year on parking passes that are rarely used.*

Nineteen City Place parking passes costing MassDOT over \$29,000 annually are not being used regularly. Our analysis of usage revealed that most passes were used only a few times in the previous year.⁶ Six of these pass-holders are MassDOT Board of Directors members. Additionally, there are eight “spare” parking passes that General Services retains for incidental requests. Based on a review of the usage for these passes, it appears they are not used regularly. The remaining five passes have been assigned to a Right of Way department vehicle, a District 1 shared vehicle, a Highway Operations department vehicle, a MassDOT Security vehicle and a motor pool vehicle. All of these passes were used minimally during the year.

Instead of maintaining these parking passes, a more cost-effective solution would be to provide complimentary vouchers for City Place Garage on the occasions when parking is needed. Vouchers are readily available and managed by General Services.

⁶ Median usage for the 19 passes was 9 days per year. See Appendix C for analysis of underutilized parking passes.

4. Non-Employees Provided with Parking

The MBTA provided two temporary legal employees with parking passes at City Place. One of these employees pays the MBTA for the cost of monthly parking at City Place. Subsequent to this review, the other employee also began paying the MBTA for his monthly parking costs. However, since the MBTA does not pay DCAMM for parking at the City Place garage, the funds collected from these two contract employees are deposited into an operating account that is used to pay regular expenses. Additionally, two District 6 consultants and one student intern have been provided complimentary parking at the Kneeland Street lot.

5. Use of Official State Vehicles for Daily Commuting

Seven employees who have been assigned full-time MassDOT official state vehicles park in the City Place Garage regularly, at an annual cost to MassDOT of over \$10,000.

Seven MassDOT employees with official state vehicles park at City Place daily, costing MassDOT over \$10,000 a year.

State vehicles are intended for employees who require daily travel on official MassDOT business and the employee's position requires vehicular transport of MassDOT personnel or work-related equipment on a daily basis. Based on the Office of Vehicle Management's Policies and Procedures Manual and the MassDOT Motor Vehicle Policy Directive P-32-001⁷, assignment of a state vehicle should be based solely on efficient vehicle utilization; that is, MassDOT should determine that the use of a state vehicle is less costly than personal mileage reimbursement for travel on official state business. Additionally, Policy P-32-001 states "Employees may not use MassDOT vehicles for personal use (including any part of their commute unless otherwise authorized)." Exceptions to this guideline include approved domiciled⁸ vehicles and/or de minimus personal use.

⁷ Note that the MassDOT Motor Vehicle Policy Directive P-32-001 is in draft form and has not yet been approved.

⁸ Domiciled state vehicles are state vehicles that employees are permitted to keep at their residence during non-work hours. Domiciled vehicles are intended for certain employees whose job functions require an emergency

Based on a review of the parking pass activity for these seven state vehicles, we identified that they are often parked for full workdays in the City Place Garage, and that multiple entries/exits throughout the day are not taking place. Therefore, the criteria which govern assignment and use of state vehicles does not appear to be fulfilled by these vehicles, and it is unclear whether state vehicle assignments to these employees are justified.

6. Unjustified Parking Assignments

Based on discussions with MassDOT General Services, some employees are assigned parking passes based on a need to respond to building or IT emergencies during non-business hours. Three Facilities employees are assigned parking passes based on this criteria at a total annual cost to MassDOT of over \$4,500. One of these employees has also been assigned a state vehicle.

\$ 4,500 can be saved by eliminating garage parking passes for Facilities employees.

These employees generally use the parking pass solely during regular business hours. Therefore, assignment of full-time complimentary parking privileges to these employees appears unjustified. An alternative solution to this situation may be to provide these employees with City Place vouchers for those occasions in which they need off-duty building access.

7. Lack of a Formal Parking Benefit Policy and Approval Process

Currently, MassDOT does not have a written policy regarding assignment of City Place parking. Thus consistent, established criteria (i.e., grade level, seniority) are not being used to assign complimentary parking benefits to employees. Based on our review, employees of various levels and seniority, ranging from Administrative Assistants to Secretariat employees, receive this benefit.⁹ Since not all employees at a given level are provided

Employees ranging from Administrative Assistants to Secretariats are provided complimentary parking by MassDOT.

response to work-related situations. These employees must demonstrate that they regularly respond to off-duty emergencies and that there is a significant efficiency in taking a state vehicle home rather than pickup/drop off of a state vehicle at a MassDOT depot.

⁹ See Appendix D for breakdown of employee levels assigned parking benefits.

with this benefit, lack of a formal policy and/or process for parking benefit distribution presents a reputational risk and potential liability to MassDOT, as employees could view parking assignment as discriminatory.

General Services currently maintains parking pass approval forms for MassDOT employees who hold parking passes. General Services requires each pass-holder to complete the form annually, indicating employee's title, department, reason for requiring parking assignment, and authorized approval. Although the form is designed to include an approver's signature, 96% of the forms reviewed did not contain any written approval, and none were approved by a Secretariat. While some of the forms contained an explanation of the justification for the parking assignment, use of a motor pool vehicle could replace the need for daily parking benefits for those employees.

Recommendations

We recommend that MassDOT and/or the MBTA:

- 1** Calculate and report taxable fringe benefit amounts for the employees who park at 185 Kneeland Street.
- 2** Update the MassDOT and MBTA fringe benefit calculations to include current exclusion rates and formally inform the affected employees of the increase/decrease in the non-cash benefit for 2013.
- 3** Consider funding rent expense and complimentary employee parking at City Place through the Operating Budget, instead of the Capital Budget.
- 4** Replace underutilized passes with single-use vouchers.
- 5** Eliminate parking privileges for non-employees including temporary, contract and consultant personnel. As contractors, parking is a cost of doing business.
- 6** Work with the MassDOT Fleet Administrator to verify that state vehicle assignments are appropriate. Eliminate parking passes

for MassDOT state vehicles that are not used daily for official state business.

- 7** Revisit the parking passes that were assigned to Facilities employees based on a need to respond to emergencies. Consider elimination of individual pass assignments for these employees, and replacing them with single-use vouchers.
- 8** Formalize a policy which defines the specific circumstances under which parking privileges are assigned and approved. To avoid any appearance of waste or abuse, consider establishing specific criteria for receiving complimentary parking (e.g., job assignment, job duties, seniority).
- 9** Revisit the list of employees with parking privileges annually to verify all assignments are justified and authorized.

Should MassDOT choose to implement all of these recommendations, significant annual savings could be realized. Additionally, bringing MassDOT and the MBTA into compliance with tax laws would result in additional tax revenue for the Commonwealth.

Appendices

Appendix A: MassDOT and MBTA City Place Garage Parking Costs

Access Type	# of Parking Passes	Monthly Rate	Annual Rate	Total Annual Expense
MassDOT				
12 Hours	36	\$125	\$1,500	\$54,000
24 Hours	99	\$128	\$1,533	<u>\$151,740</u>
Total	135			\$205,740
MBTA				
12 Hours	13	\$125	\$1,500	\$19,500
24 Hours	42	\$135	1,620	<u>\$68,040</u>
Total	55			\$87,540 ¹⁰
Grand Total	190	-	-	\$293,280

¹⁰ In an effort to improve the MBTA's financial condition, DCAMM waived this amount for Fiscal Year 2013 and thus far in Fiscal Year 2014.

Appendix B: MassDOT and MBTA Fringe Benefit Tax Underreporting

Location	2013 Number of Employees	Amount of Fringe Benefits Calculated for 2013 ¹¹	2013 Actual Fringe Benefits ¹²	2013 Amount Underreported
185 Kneeland Street	131	-	243,660	243,660
City Place-MBTA	38	29,640	31,920	2,280
Total	169	29,640	275,580	245,940

¹¹ Amounts annualized for 2013.

¹² Amounts annualized for 2013.

Appendix C: Underutilized Parking for FY 2013

FY 2013	2012						2013						Total	
Parking Pass Assignment	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Days Parked	Annual Cost
Board Members (6)														
1	5	0	0	3	3	0	5	0	0	0	0	3	19	1,620
2	2	3	1	1	3	2	2	2	3	1	3	0	23	1,620
3	NA	NA	NA	2	2	2	2	2	3	1	3	1	18	1,620
4	0	6	3	0	0	1	2	2	3	2	3	3	25	1,533
5	3	1	3	0	4	5	7	5	9	8	9	2	56	1,533
6	0	1	0	0	0	2	1	1	2	1	1	0	9	1,533
Subtotal														\$ 9,458
Spare Passes (8)														
Spare #1	0	0	0	0	0	0	8	1	0	0	0	1	10	1,500
Spare #2	0	0	0	1	0	0	0	1	0	0	0	0	2	1,500
Spare #3	0	3	6	3	0	0	0	0	0	0	0	0	12	1,500
Spare #4	0	0	0	0	0	0	0	0	0	0	0	2	2	1,500
Spare #5	0	0	0	0	0	0	0	0	0	0	0	0	0	1,500
Spare #6	0	0	0	0	0	0	0	0	0	0	0	0	0	1,500
Spare #7	0	0	0	0	0	0	0	0	0	0	0	0	0	1,533
Spare #8	0	0	0	0	0	5	2	1	1	0	0	0	9	1,500
Subtotal														\$ 12,033
Other (5)														
Right of Way	0	1	0	1	1	1	3	0	0	0	0	0	7	1,533
District 1	2	4	2	5	2	2	4	2	1	3	4	3	34	1,500
Highway Operations	0	0	0	0	0	0	0	0	1	1	6	4	12	1,500
Security	0	0	0	0	2	1	3	1	3	2	2	1	15	1,533
Motor Pool	0	0	0	0	0	0	0	0	2	6	6	12	26	1,500
Subtotal														\$ 7,565
Total														\$ 29,056

Appendix D: MassDOT and MBTA Employee Parking at City Place Garage

Employee Grade Level	# of Parking Passes Assigned	Annual Cost
Secretariat and Board ¹³	32	\$50,204
Subtotal		\$50,204
Senior Staff ¹⁴	35	\$54,115
Deputy Directors ¹⁵	16	\$24,655
Managers	18	\$29,220
Staff	11	\$18,469
Administrative Assistants	3	\$4,686
MBTA Temporary/Contract Employees	2	\$3,120
Subtotal		\$134,265
Motor pool ¹⁶	35	\$53,788
Shared ¹⁷ District 1	2	\$3,000
Shared District 2	1	\$1,500
Shared District 3	2	\$3,000
Shared District 4	2	\$3,033
Shared District 5	2	\$3,033
Shared District 6	3	\$4,566
Shared Bridges and Structures	1	\$1,500
Shared Highway Division	2	\$3,033
Shared MassDOT IT	5	\$6,186
Shared Aeronautics	2	\$3,066
Shared MBTA	7	\$7,980
Spare Passes and State Police	9	\$15,131
Subtotal		\$108,816
Total ¹⁸		\$293,285

¹³ This category includes the Secretary of Transportation, direct reports and Administrators of the Secretary, and MassDOT and MBTA Board members.

¹⁴ This category includes Directors and Officers that support Administrators.

¹⁵ This category includes Deputies accountable to Directors and Officers.

¹⁶ This category includes the 35 motor pool vehicles available for daily use by MassDOT employees, garaged at City Place.

¹⁷ This category includes parking passes not assigned to specific employees; rather assigned to a department for general use.

¹⁸ The difference between this total and Appendix A is due to rounding.