



**Office of the Auditor General**

**Investigation of OC Transpo Clothing Allowance**

**Tabled at Audit Committee**

**July 4, 2019**

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**Acknowledgements**

The team responsible for this audit, comprised of Margaret Sue, Chantal Amyot and Nathan Sassi from the Office of the Auditor General (OAG) under the supervision of Ed Miner, Deputy Auditor General and the direction of Ken Hughes, Auditor General, would like to thank those individuals who contributed to this project, and particularly, those who provided insights and comments as part of this investigation.

Original signed by:

Auditor General

## Investigation report

### Investigation of OC Transpo Clothing Allowance

#### Introduction

On March 23, 2018, a report was received through the Fraud and Waste Hotline (Incident Report) regarding the City's purchase and distribution of prepaid cards<sup>1</sup> to OC Transpo Fleet Maintenance employees for clothing allowances and the tax implications of providing these cards to the employees. Under the City's Fraud and Waste Policy (the "Policy"), the Auditor General, in consultation with the City Clerk and Solicitor as required, has the primary responsibility for the receipt of all allegations of fraud or waste as defined in the Policy and for investigating or referring the investigation of such allegations, as appropriate.

In response to the Incident Report, the Office of the Auditor General (OAG) investigated the allegations related to the OC Transpo's use of prepaid cards.

#### Background and context

The Incident Report that was filed on March 23, 2018 alleged the following:

1. Clothing allowances provided to OC Transpo Fleet Maintenance employees on a prepaid card are taxable benefits but have not been reported on the employee's T4;
2. A significant number of employees that received the clothing allowance / prepaid card were not eligible; and
3. There are no controls around the distribution of the prepaid cards.

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<sup>1</sup> "Prepaid cards" refers to the Mark's prepaid cards, also known as gift cards, with pre-determined balances that were distributed to certain OC Transpo employees (refer to Appendix A to see samples of Mark's prepaid cards). The cards could be used to purchase anything in Mark's stores, however they were intended to be redeemed towards the purchase of work related clothing and/or safety boots or shoes. Although they are referred to as "purchasing cards" in some of the applicable collective agreements, they should not be confused with the credit cards issued to City employees which are also referred to as "purchasing cards" per the City's Purchasing Card policy and procedures.

A clothing allowance is a negotiated benefit under agreements with the following three Unions: Amalgamated Transit Union, Local 1760 (ATU 1760), The Amalgamated Transit Union, Local 279 (ATU 279) and CUPE Local 5500 Transit Maintenance Branch and Transit Facilities Maintenance and Capital Projects Branch (CUPE 5500). Relations with each Union are governed by separate collective agreements. At the time of the Incident Report, OC Transpo had been purchasing an inventory of prepaid cards from Mark's Work Wearhouse (Mark's) and issuing them to each eligible OC Transpo employee once per year.

### **ATU 1760 – Article 44 Purchasing Card – Clothing**

The most current collective agreement between the City of Ottawa and ATU 1760 was agreed on December 10, 2015 for the period January 1, 2015 to December 31, 2017. Article 44 of the collective agreement states the following:

*"In January of each year, the Employer will provide each incumbent of the following positions as of January 1 with a purchasing card, or other payment system as it deems appropriate, providing an amount of four hundred and seventy-five dollars (\$475.00). This amount will be spent towards the purchase of work related clothing from a City selected supplier. When choosing this supplier the City will take into account the quality of the clothing and the reasonableness of the prices. The purchasing card or other payment system will be valid for a period of twenty-four (24) months from the date of issue.*

- *Administration Services Officer*
- *Attendance Management / Warranty Administrator*
- *Senior Stores Clerk*
- *Stores Clerk*
- *Transfer Printers"*

Under this article, each employee in one of the five positions noted above and who is a member of this Union is eligible for an allowance of \$475 (pre-tax) for work related clothing. In 2019, allowances were paid to 39 ATU 1760 employees (\$18,525).

### **ATU 279 – Section (10)10.2 – Clothing**

The collective agreement in effect between the City of Ottawa and ATU 279 was ratified in February 2016 and is effective for the period April 1, 2016 to March 31, 2020. Article (10)10 of the collective agreement states:

*“In January of each year, the Employer will provide each employee with a purchasing card, or other payment system as it deems appropriate, providing an amount of four hundred and fifty dollars (\$450.00). This amount will be spent towards the purchase of work related clothing and safety boots or shoes at the City selected supplier. When choosing this supplier the City will take into account the quality of the clothing, reasonableness of the price. The purchasing card or other payment system will be valid for a period of twenty-four (24) months from the date of issue.”*

Under this article, each employee who is a member of this Union is eligible for an allowance of \$450 (pre-tax) for work related clothing and safety boots or shoes. In 2019, allowances were paid to 455 ATU 279 employees (\$204,750).

### **CUPE 5500 – Clause 9 – Uniform Clothing**

The current collective agreement between the City of Ottawa and CUPE 5500 was ratified by the City in March 2016 (by the Union March 1, 2018) for the period April 1, 2015 to March 31, 2018. Clauses (9)1.1 and (9)1.2 of the collective agreement states the following:

*“(9)1.1 Every two (2) years the City shall provide Transit Fleet and Facilities Maintenance Supervisors who perform outside work with a choice of ski-doo suit, winter parka or fall/spring jacket worth up to a maximum of \$150.00. Cleaning and maintenance of these items shall be the responsibility of the employee. If within the said two (2) year period the jacket becomes unusable, it is the sole responsibility of the employee to replace at his/her cost.*

*(9)1.2 In lieu of all clothing items, except those specified in other sections of the clause, the City will pay to each employee the face value of clothing vouchers in the amount of \$500.00.”*

Under these articles, each employee who is a member of this Union is eligible for an allowance of \$500 (pre-tax) for a clothing allowance. In 2019, allowances were paid to 48 CUPE 5500 employees (\$24,000).

### **Purchase of prepaid cards**

At the time of the Incident Report, OC Transpo had a process whereby a certain number of prepaid cards were purchased from Mark's in the fall of each year. Then in January of the following year, a prepaid card with an allotted value was distributed to each employee identified by management as eligible to receive a clothing allowance. Mark's prepaid cards were distributed to employees between 2001 and 2018. In October 2018, the use of prepaid cards by OC Transpo for the clothing allowance was discontinued.

Currently, OC Transpo management provides the City of Ottawa's Payroll, Pensions and Benefits Branch with a list of employees who are deemed eligible to receive a clothing allowance. Payroll staff review each name on the list to verify eligibility. Upon verification of the list of employees by Payroll staff, a clothing allowance (including tax deductions) is included on the employee's pay in November or January, depending on the collective agreement. Prior to 2018, the value of the prepaid card was not treated as a taxable benefit on an employee's T4.

### **Objective and scope of the investigation**

The objective of the investigation was to investigate the allegations surrounding the purchase, distribution and tax implications of providing OC Transpo Fleet Maintenance<sup>2</sup> employees with prepaid cards. This included:

- Assessing whether the prepaid cards/clothing allowance should be considered as a taxable benefit;
- Assessing whether the employees who received the prepaid cards/clothing allowance were eligible; and
- Assessing the controls over the purchase, distribution and safeguarding of the prepaid cards.

The allegations were raised in the Fraud and Waste report on March 23, 2018 at a time when OC Transpo was distributing prepaid cards to employees to redeem for their clothing allowance. Our scope at the outset of the investigation was to review the process relating to the purchase of prepaid cards in 2017 and the distribution thereof in

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<sup>2</sup> Some OC Transpo employees working outside of Fleet Maintenance, such as Transit Facilities Maintenance employees also receive this benefit. However, the scope of our investigation is limited to OC Transpo Fleet Maintenance employees as per the Incident Report.

2018. As the investigation progressed, we learned that OC Transpo discontinued the use of prepaid cards in October 2018. Our scope was expanded to include 2019 to confirm the new process for employees who received a clothing allowance in January 2019.

## **Approach and methodology**

Our approach to the investigation was to obtain the facts surrounding the purchase and distribution of prepaid cards including the eligibility of employees who received the clothing allowance and the associated tax implications. The investigation included the following activities:

- Interviews with OC Transpo staff who had knowledge of the process for the purchasing, safeguarding and distribution of prepaid cards for the clothing allowance;
- Discussions with City Payroll staff;
- Review of relevant records including extracts of the collective agreements, Canada Revenue Agency non-taxable benefit definitions, OC Transpo clothing allowance process documents and lists of employees who received the clothing allowance; and
- Reviewing the human resources information of a sample of employees who received the clothing allowance to confirm eligibility.

Our investigative procedures were conducted between the period April 2018 and March 2019.

## **Findings and recommendations**

### **Finding #1 – Clothing allowance was not treated as a taxable benefit before 2018**

One of the allegations raised in the Fraud and Waste report was that the clothing allowance was not being treated as a taxable benefit.



Prior to the fall of 2018, the clothing allowances, distributed as a prepaid card, were not treated as a taxable benefit, and therefore were not included on the employee's T4 Statement of Remuneration Paid (T4). According to Canada Revenue Agency, for an allowance to be treated as a non-taxable benefit<sup>3</sup>, the following three conditions must be met:

1. By law, the employee has to wear the protective clothing on the work site;
2. The employee used the allowance to buy protective clothing; and
3. The amount of the allowance is reasonable.

Following a series of internal consultations among City staff, a decision was taken to discontinue the use of Mark's prepaid cards in 2018. During 2018, the Manager of Payroll, Pensions and Benefits worked with the Director of Transit Operations and Union representatives to adjust the clothing allowance process after performing an internal review of the tax implications of the clothing allowance. OC Transpo and Payroll staff completed an analysis of the components of the clothing allowance to determine the tax implications. The results of the internal review determined that a portion<sup>4</sup> of the clothing allowance was a taxable benefit.

OC Transpo instituted a new clothing allowance process effective October 30, 2018. In early January 2019, OC Transpo provided Payroll with three lists, one for each applicable Union, of the staff that were eligible for the clothing allowance. Payroll added the allowance, both the taxable and non-taxable portions, to the last payroll of January 2019. Since the new process was updated after the 2018 Mark's cards were distributed, Payroll allocated the taxable portion of the 2018 clothing allowance as a taxable benefit over the last five pay periods of 2018. This interim procedure allowed Payroll to collect and remit taxes for the 2018 distribution and ensured that the taxable portion of the allowance was recorded on the employee's 2018 T4.

While the allegation that clothing allowances were not being treated as taxable benefits at the time of the complaint was accurate, based on the current process, the taxable portion of the clothing allowances for 2018 and 2019 were treated as taxable benefits.

**Recommendation:** None.

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<sup>3</sup> Canada Revenue Agency – Employers' Guide – Taxable Benefits and Allowances T4130(E) Rev. 18  
Accessed March 29, 2019

<sup>4</sup> The portion notionally allocated for protective clothing was deemed non-taxable.

## **Finding #2 – No evidence that ineligible employees received the clothing allowance**

One of the allegations raised in the Fraud and Waste report was that a significant number of ineligible employees received prepaid cards for the annual clothing allowance.

The criteria for eligibility for the annual clothing allowance is detailed in the respective collective agreements. All members of CUPE 5500 and ATU 279 are eligible for the allowance. The ATU 1760 collective agreement states that the following specific positions are eligible for a clothing allowance: Administration Services Officer, Attendance Management / Warranty Administrator, Senior Stores Clerk, Stores Clerk and Transfer Printers.

OC Transpo management now prepare the lists of eligible employees annually and provide them to the Payroll, Pensions and Benefits Branch for payment of the clothing allowance. We confirmed with the Program Manager, Pensions and Finance, that Payroll staff verified the eligibility of each employee on the list before processing the clothing allowance on the last pay of January 2019.

We also reviewed the human resources information for a sample of employees that received the 2019 clothing allowance to confirm their eligibility. We did not identify any instances of ineligible staff receiving a clothing allowance in 2019. However, we did note that the positions named in the ATU 1760 collective agreement as being eligible for a clothing allowance are not identical to the current titles of OC Transpo positions. Therefore, OC Transpo management exercise their judgement to identify the current positions that correspond to the positions specified in the collective agreement. Although we found the ATU 1760 position titles that received the allowance could reasonably be linked back to the positions specified in the collective agreement, there could be allegations of favoritism and inconsistent treatment of employees.

### **Recommendation #1**

That the City consider proposing changes to ATU 1760 collective agreement to update the titles of eligible positions.

**Management response:**

Management agrees with this recommendation.

Management will seek to update the list of titles of eligible positions during the next round of bargaining of the ATU 1760 collective agreement, which is scheduled to occur at the end of 2019.

**Finding #3 – Controls related to the distribution of prepaid cards are no longer relevant**

One of the allegations raised in the Fraud and Waste report was that there were non-existent controls around the distribution of prepaid cards.

Since prepaid cards were discontinued in 2018, the allegation related to the distribution of prepaid cards is no longer applicable.

**Recommendation:** None

## Appendix A – Sample Mark's Prepaid Cards

