OFFICE OF GOVERNMENT ETHICS

04 x 8

**Memorandum to Designated Agency Ethics Officials,
General Counsels, and Inspectors General
dated July 7, 2004**

I am writing to bring to your attention a program sponsored by the Maryland Department of Transportation. According to an official press release, the "Sworn Officer Program" offers free MARC commuter train service to local, State and Federal law enforcement personnel, and the majority of current participants in the program come from a "variety of federal government agencies." *http://www.mdot.state.md.us/News/2004/March%202004/MARC_security. htm*.

The offer of free ridership does not appear to be gratuitous, as participating law enforcement personnel must agree to provide certain security-related services in exchange. "In exchange for riding MARC trains free of charge, armed undercover officers sign a written agreement stating that they will serve as unofficial security for this train. The agreement also requires each participant to submit a report detailing suggestions of how to improve train security based on their real-time observations." *Id.* Consequently, we believe that this program is best viewed as a type of employment or services agreement, rather than as a gift subject to subpart B of 5 C.F.R. part 2635. *Compare* OGE Informal Advisory Memorandum 99 x 1 (Federal law enforcement officials may not accept discounts on bus fare offered by bus companies to all law enforcement officials).

Even though the program does not raise gift concerns under the ethics rules, agencies may have other issues they wish to address. Some agencies, for example, have prior approval requirements for certain outside activities of their law enforcement personnel. Moreover, even apart from the ethics rules, agencies may have concerns about potential liability or other non-ethics issues. OGE takes no view on these issues, but simply wants to bring the matter to the attention of agencies so that they can raise and resolve any concerns they may have about the effect of the program on agency operations.