



# Bay Area Commuter Benefits Program

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## Frequently Asked Questions



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## Program Overview and Requirements

*See page 6 for key definitions and detailed provisions.*

### What is the purpose of the Bay Area Commuter Benefits Program?

The purpose of the Bay Area Commuter Benefits Program (BACBP) is to improve air quality and reduce traffic congestion by promoting the use of commute modes such as teleworking, transit, ridesharing, bicycling, and walking.

### Who runs BACBP?

BACBP is a partnership led by the Metropolitan Transportation Commission (MTC) and the Bay Area Air District (Air District).

### Which employers are required to enroll in BACBP?

All public, private, and non-profit employers with 50 or more full-time employees within the [geographic boundaries](#) of the Air District are required to enroll in BACBP and update registration annually.

### Are there employers that are not required to enroll in BACBP?

There are some employers that are not required to register with the commuter benefits program including, but not limited to:

- Employers with less than 50 full-time employees
- Employers with no work locations within the Air District's jurisdiction
- Companies that are 100% remote
- Companies that have merged with another company
- Companies that have closed
- Companies that are already registered under San Francisco Department of the Environment (SFDOE)

If you are unsure if your company is required to enroll in BACBP, we recommend contacting an Employer Service Representative at [commuterbenefits@511.org](mailto:commuterbenefits@511.org) or by calling (510) 285-3182 to verify your requirements for compliance. Translation services are available.

### What is required to stay in compliance with BACBP?

BACBP requires employers with 50 or more full-time employees in the Bay Area to:

- 1) Select one (or more) of the five commuter benefits options.
- 2) Designate a primary and secondary Commuter Benefits Coordinator.
- 3) Register your benefit plan on the commuter benefits program webpage.
- 4) Notify employees of the commuter benefit option(s) selected and provide information on how to take advantage of it.
- 5) Maintain records to document implementation of the commuter benefit.
- 6) Provide information to the Air District/MTC upon request for program evaluation purposes.
- 7) Update registration annually to indicate any changes to your program.

### What types of records must be maintained?

Regarding bullet 5) from the previous question, all employers must maintain records of how the commuter benefit option(s) has been implemented, promoted, and made available to employees, including how and when the employees were notified of the commuter benefit.

Documentation must be maintained for a three-year period and be made available to the Air District upon request.

### **What are the five commuter benefits options?**

Employers must choose one (or more) of the following commuter benefit options to offer to their employees:

**Option 1:** Pre-tax benefit

**Option 2:** Transit or vanpool subsidy (or transit pass)

**Option 3:** Employer-provided transportation

**Option 4:** Alternative commuter benefit

**Option 5:** Telework

### **If my company is already offering commuter benefits, are we in compliance with BACBP?**

Even if your company already offers a commuter benefit that is consistent with one of the five Program Options, you are not automatically in compliance. To comply with BACBP, you will need to complete the online registration form and then update it annually.

### **Do employers who are not located near transit still have to comply with BACBP?**

Yes, BACBP applies to all Bay Area employers with 50 or more full-time employees. BACBP is designed to give employers the flexibility to tailor their commuter benefits program to the needs of their employees. Options 3, 4, and 5 are all enticing commuter benefits that do not require an employer to be in close proximity to public transportation.

### **Are there any penalties for employers who do not participate in BACBP?**

All employers who are subject to the commuter benefits program are required to participate. The Air District has the authority to impose financial penalties on noncompliant employers as authorized by the California Health & Safety Code Section 65081. Before moving to the enforcement phase, the Air District will contact the employer directly with registration reminders that outline program requirements.

### **Can I update registration information before the annual renewal window is open?**

Yes, if there are any changes to your benefit program (i.e. a new commuter benefit coordinator contact, new benefit offered, etc.) employers can log in to the registration portal using your credentials to edit the information. If you are having trouble, contact an Employer Service Representative at [commuterbenefits@511.org](mailto:commuterbenefits@511.org) or by calling (510) 285-3182. Translation services are available.

### **What is the deadline for annual renewal?**

The window for annual renewal begins 12 months after an employer initially registers with BACBP. This means that the annual renewal date is different for each employer. When the annual renewal window opens for each employer, they will receive the first renewal email notification. It is important that the email and phone contact information for your Benefits Coordinator(s) are always up to date on your registration form.

Once the annual renewal window opens, employers have 30 days to update their registration and indicate any changes to their commuter benefits program. Additional email reminders will be issued 60 and 90-days after the renewal window opens.

## Key Definitions & Provisions

### How does BACBP define the term “full-time employee”?

Employers with 50 or more full-time employees in the Bay Area are subject to BACBP. For the purposes of BACBP, a **full-time employee** is any employee who receives a W-2 form from the employer and works at least 30 hours per week.

### Which employees are entitled to commuter benefits?

Employers must offer their commuter benefit(s) to all covered employees. For the purposes of BACBP, a **covered employee** is defined as any employee who works an average of 20 hours per week or more.

### Which employees are not required to receive commuter benefits?

Employers are not required to offer their commuter benefit(s) to seasonal/temporary employees or field employees. For the purposes of BACBP, a **seasonal/temporary employee** is defined as any employee who works less than 120 days per year. A **field employee** is defined as any employee whose primary job responsibilities are at temporary job site(s) and who do not report to the employer’s home office.

Although employers are not required to offer commuter benefits to these employees, they are welcome to do so on a voluntary basis.

### Are employees who work remotely entitled to commuter benefits?

All covered employees are entitled to commuter benefits, regardless of whether they work in-person or remotely. Employers who are subject to BACBP and have employees working remotely can comply with BACBP by offering benefit Option 5 (telework).

### Are temporary employment agencies subject to BACBP?

Yes, **temporary employment agencies** (temp agencies) in the Bay Area with 50 or more full-time employees are required to enroll and participate in BACBP. The “field employee” exclusion still applies to temp agencies, meaning that employees who are assigned to a work site that is temporary in nature (e.g. construction site or well-drilling business) are not covered by BACBP while employees who are assigned to a worksite that is permanent in nature (e.g. corporate office or law firm) are covered.

## General Program Questions

### **Does BACBP directly implement benefits to employees?**

No. BACBP does not directly provide benefit services to employees. Employers are responsible for implementing their benefits plan or retaining a benefit provider to do so on their behalf. Employers are required to report which commuter benefit option they are offering to their employees by registering with BACBP.

### **Where can I find a benefit provider to help implement my program?**

A comprehensive list of vendors providing commuter benefit services for employers to contact directly is available at [511.org/CommuterBenefitsProgram](https://www.511.org/CommuterBenefitsProgram).

### **Can employers with less than 50 full-time employees still participate in BACBP?**

Although employers with less than 50 full-time employees are not required to register in BACBP or report to the Air District/MTC, they are still encouraged to offer commuter benefits consistent with the five Program options.

### **Can an employer offer more than one commuter benefit?**

Employers are only required to offer one of the five Program Options but are more than welcome to provide additional benefits on a voluntary basis.

### **If an employer requires a waiting period for newly hired employees to receive commuter benefits, are they still in compliance with BACBP?**

Employers may impose a waiting period for receiving commuter benefits as long as it does not exceed 90 calendar days from the employee's hire date.

### **Is an employer still in compliance if their employees do not take advantage of the commuter benefit(s) they offer?**

If an employer makes at least one commuter benefit available to employees, they are in compliance with BACBP, regardless of how many employees choose to use the commuter benefit(s).

### **How much does it cost to enroll in BACBP?**

Enrollment in BACBP is free. For employers that already provide commuter benefits that are in line with the program requirements, there are minimal if any additional costs. For employers who do not already offer commuter benefits, the potential costs will depend upon which of the Program Options the employer selects, whether the employer is a non-profit, and the number of employees who choose to utilize the commuter benefit(s).

## Multiple Worksites

### Is BACBP required for employers with less than 50 employees per worksite?

Yes, the threshold of 50 or more full-time employees is based on the total number of employees at all Bay Area worksites combined.

### Can an employer offer different commuter benefits at each of their worksites?

Yes, as long as each commuter benefit is consistent with one of BACBP’s five benefit options, the Air District and MTC encourage employers to tailor their benefits program to the needs of each worksite.

### If one (or all) of an employer’s worksites is located in a city with an existing commuter benefit ordinance act, does BACBP requirement still apply?

Yes, all employers that are subject to BACBP are still required to enroll and participate in BACBP. The Air District and MTC share information with local entities regarding the worksites within their respective jurisdictions. Smaller employers that are not subject to BACBP should continue to participate in their worksite’s local commuter benefit ordinance.

Local program applicability thresholds are outlined in the table below.

Jurisdiction	Threshold
City & County of San Francisco	20 or more employees nationwide
San Francisco International Airport	20 or more employees nationwide
City of Berkeley	10 or more employees nationwide
City of Richmond	10 or more employees nationwide



## Option 1: Pre-Tax Benefit

### What is the Option 1 Pre-Tax Benefit?

Under Option 1, employers allow employees to exclude their transit or vanpool costs from taxable income to the maximum extent permitted by federal law (refer to the [BACBP Options](#) page for the updated maximum amount). The pre-tax benefit option is similar to the Flexible Spending Account (FSA) which allows employees to set aside dollars on a pre-tax basis to pay for qualified medical expenses.

### Does unused pre-tax money roll over or is it “use it or lose it”?

Under IRS Tax Code Section 132(f), employees may carry over unused transit tickets purchased with pre-tax dollars to subsequent months, provided that the transit provider allows unused value to be carried forward.

## Option 2: Transit or Vanpool Subsidy

### What are the minimum and maximum subsidies that an employer can offer under Option 2?

Under Option 2, an employer must provide a monthly subsidy to cover total commute costs up to an inflation adjusted maximum amount (see Program Options page for current maximum). If an employee’s monthly vanpool or transit fare is less than the maximum amount, the employer is only responsible for covering the amount of the fare. If an employee’s fare exceeds the maximum amount, the employer is only responsible for offering the current maximum amount. Employers may choose to offer a subsidy higher than the maximum amount on a voluntary basis. Any amount greater than the maximum would be subject to taxation.

### If an employer provides an annual transit pass (e.g. Clipper BayPass for unlimited travel on all Bay Area transit services) to all employees, does that fulfill Option 2?

Yes, however, if multiple transit agencies serve the worksite, employers that offer an agency-specific transit pass (e.g. AC Transit’s EasyPass) are encouraged to also provide a pre-tax benefit or additional subsidy to employees who commute using other transit providers.

### Are there any tax savings associated with Option 2?

Transit and vanpool subsidies under Option 2 are provided tax-free to the employee up to the current maximum amount. For the purpose of calculating corporate income taxes, employers may be able to deduct transit and vanpool subsidies as business expenses (employers should check with a tax advisor first).

## Option 3: Employer-Provided Transportation

### What is Option 3 – Employer Provided Transportation?

Under Option 3, employers are required to provide transportation from employees' home communities to the worksite. This can include buses, vans, or shuttle services.

### Are there any tax savings associated with Option 3?

For the purpose of calculating corporate income taxes, employers may deduct the cost of providing employee transportation as a business expense (employers should check with a tax advisor first).

### If an employer provides a shared bus or shuttle service in collaboration with other employers, does this fulfill Option 3?

Yes, as long as the employer financially contributes to the shared service, they are in compliance with Option 3.

### Are employers allowed to charge a fare to employees for using the employer-provided transportation?

Under Option 3, employers may charge a modest fee for using the bus or shuttle, provided that it does not exceed the following "low-cost" thresholds:

**Short distance transportation:** maximum of \$2.00 per employee for a one-way trip.

**Long distance transportation:** maximum of \$0.20 per mile for a one-way trip.

### My company belongs to a group of employers who collectively pay for a shuttle for employees to use. Does this qualify as compliance under Option 3?

Yes, under Option 3, employers are allowed to provide a shared bus or shuttle service in collaboration with nearby businesses.



## Option 4: Alternative Commuter Benefit

### What is Option 4 – Alternative Commuter Benefit Plan?

Option 4 allows employers to create a customized benefits plan by choosing a combination of pre-approved ‘primary measures’ and ‘secondary measures’ to reduce drive alone commuting.

Under Option 4, employers can choose to offer one of three types of custom plans:

- 1) **4A:** One Primary Measure + at least two Secondary Measures.
- 2) **4B:** At least four Secondary Measures.
- 3) **4C:** Propose your own unique commuter benefit and describe why it would be appropriate at your worksite. The Air District will evaluate and approve your proposal if it is deemed as effective as the other commuter benefit options.

Detailed descriptions of each primary and secondary measure can be found in the [Option 4 guide](#).

### Can employees exclude bicycling costs from their taxable wages?

Section 132(f) of the federal tax code allows employers to provide employees with a tax-free subsidy towards bicycle commuting costs. The code does not allow employees to use their own pre-tax dollars to pay for bicycle commuting costs.

### Can employees exclude carpooling costs from their taxable wages?

As of July 2024, the tax code does not allow carpool costs to be excluded from taxable wages, but please check back with the [IRS tax code](#) for any updates.

#### PRIMARY MEASURES

- Carpool subsidy (\$3/day that the employee carpools)
- Bicycle subsidy (\$20 per month)
- Limited telework schedule
- Compressed workweek
- Parking cash-out
- Electric vehicle implementation

#### SECONDARY MEASURES

- Preferred parking for carpools
- Employer-specific carpool match service
- Employer-provided membership in a car-sharing program
- Participation in an emergency/guaranteed ride home program
- Secure, on-site bicycle parking
- Showers and bicycle lockers for employees
- Employer-sponsored bike share program
- Employee commuting awards program (ex: bonus vacation day; free lunch; gift card; etc.)
- On-site amenity (ATM; café; catered lunch; onsite childcare, dry cleaning, etc.)
- Provision of a shared mechanism for viewing real time commuting info (ex: flatscreen monitor in lobby)
- Lunchtime shuttle
- Transit subsidy (at least \$1/day, but less than \$3/ day)

### **What is the difference between a vanpool and carpool?**

For the purposes of BACBP, a vanpool is defined as any highway vehicle with seating capacity for at least six adults, excluding the driver, that meets the following two requirements:

- 1) Commuter transportation makes up at least 80% of the vehicle use.
- 2) When used for commuting, at least half of the seats must be occupied, on average, excluding the driver.

### **If an employer chooses to provide electric vehicle chargers as a primary measure, is there a minimum number they must provide?**

There is no minimum requirement of electric vehicle (EV) charging stations per worksite. Employers are encouraged to provide sufficient chargers to meet anticipated employee demand.

### **Does offering a parking cash-out program qualify as compliance under Option 4?**

California state law requires certain employers who provide subsidized parking for their employees to offer the option of taking a cash allowance in lieu of a parking space. This law is referred to as the parking cash-out program (PCO). Employers can comply with BACBP by means of Option 4 by implementing a PCO policy in combination with at least two secondary measures.

## **Option 5: Telework**

### **What is Option 5 – Telework?**

Under Option 5, an employer must offer a company-wide telework benefit option allowing a majority of employees to telework at least one day or more per week.

### **What is a Limited Telework Schedule?**

Limited Telework Schedules are teleworking programs that are either not available to all employees or allow telework less than once a week. Under Option 4A, employers can offer Limited Telework programs as a “primary measure” along with two secondary measures.

To comply with BACBP through Option 5, however, employers must offer a telework plan that allows all eligible employees to work remotely at least one day per week.

### **If an employer complies through Option 5, are they allowed to stop offering commuter benefits that were previously made available?**

No, employers must continue offering existing commuter benefits in tandem with the telework program. If an employer wishes to remove existing commuter benefits options, they will need to have their telework program approved by the Air District.