



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
September 2, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found that the State Liquor Authority (SLA) failed to monitor or regulate use of agency vehicles. SLA's vehicle policy was poorly enforced, with many employees inaccurately or incompletely filling out vehicle mileage reports. The lack of complete records prevents SLA from identifying improper use of its vehicles. Moreover, several senior employees demonstrated a misunderstanding of applicable laws, leading to misreporting or underreporting of taxable benefits to the IRS. Despite two recent revisions, the SLA's vehicle policy still does not provide sufficient guidance regarding segregation and identification of commuting miles for tax purposes. In addition, the Inspector General found that SLA permitted several employees to use state vehicles almost exclusively for long distance commuting, incurring large expenses at little or no benefit to the agency.

The Inspector General recommended that SLA clarify to its employees, through written policy and training, applicable rules regarding differentiating business from commuting mileage, including specific scenarios that employees may encounter, for example, making a stop in between work and home. In addition, the Inspector General recommended that SLA consider revisions to its vehicle mileage reporting form to improve data collection, and enforce completion of these reports. Further, the Inspector General advised that no SLA employee is exempt from federal laws requiring employees to report the taxable benefit of commuting, and accordingly recommends that all SLA employees, including all three commissioners, report such commuting benefit to the State Comptroller on forms provided each year. Finally, the Inspector General recommended that SLA review its vehicle assignments to restrict long distance commuting, and eliminate exclusive or near-exclusive use of vehicles for commuting, to ensure that vehicle assignments are in the best interest of the state and are fiscally responsible.

ALLEGATION

On December 23, 2008, SLA General Counsel Thomas Donohue requested that the Inspector General conduct a review of the assignment, use and supervision of the agency's fleet of state vehicles, as well as the agency's compliance with a new vehicle policy promulgated on October 8, 2008.

METHODOLOGY

The Inspector General obtained and reviewed all vehicle policies and related documentation for the past six years. In addition, the Inspector General examined all vehicle cost records for November and December 2008, plus vehicle records for all of 2008 for select staff. The Inspector General also reviewed employee forms reporting personal taxable benefit, and obtained official work station and home address information for employee-assigned vehicles. The Inspector General interviewed several supervisors and employees of SLA, as well as General Counsel Donohue, former Fleet Manager Mark Anderson, and all three commissioners.

SUMMARY OF INVESTIGATION

Background

The New York State Liquor Authority (SLA) was created in 1934 by Chapter 478, the Alcoholic Beverage Control Law, to “regulate and control the manufacture, sale, and distribution within the state of alcoholic beverages...[for the] protection, health, welfare, and safety of the people of the state.” The SLA has two main functions: issuing liquor licenses and permits, and ensuring that licensees are in compliance with the provisions of the state’s Alcoholic Beverage Control Law.

During the pendency of this investigation, the SLA was governed by a board of three commissioners, Daniel B. Boyle, Noreen Healey, and Jeanique Greene, appointed by the governor with the advice and consent of the Senate. The governor designates one of the commissioners as chairman. Daniel B. Boyle was serving as chairman until Dennis Rosen was sworn in on August 18, 2009. In addition to overseeing agency operations, the board authorizes liquor licenses (although some of this authority is delegated to the local offices) and may hold hearings regarding violations and impose fines.

SLA has a staff of approximately 170, including 40 investigators. The SLA maintains three “zone” offices in New York City, Albany, and Buffalo, and one satellite office in Syracuse. SLA maintains a fleet of 41 unmarked vehicles. Three of the vehicles are assigned to the three commissioners. Thirty-five vehicles are assigned to investigators in SLA’s Enforcement Division, and one is assigned to a New York City employee responsible for conducting “500-foot rule” checks.¹ The two remaining vehicles are treated as “pool” vehicles.

Agency Policies Regarding Vehicle Use

In April 2008, members of the Inspector General’s office met with then-Chairman Boyle to discuss an allegation that SLA employees misused agency vehicles. Boyle agreed to review the agency’s vehicle policy and report back to the Inspector General. During his review, the SLA adopted a new vehicle policy effective May 1, 2008, to incorporate revisions promulgated by the state Office of General Services. Once the agreed-upon review was complete, the SLA again revised its policy, effective October 8, 2008.

¹ Alcoholic Beverage Control Law Chapter 478 prohibits certain liquor-serving establishments from locating within 500 feet of another such establishment, unless the SLA board determines that such placement would be in the “public interest.”

From October 1, 2003 until May 1, 2008, the SLA's vehicle policy prohibited commuting by all employees except the three commissioners, who were permitted unrestricted use of their state vehicles.² This policy advised the commissioners that commuting use of state vehicles was reportable to the Internal Revenue Service. The May 1, 2008, revisions permitted some commuting for weekend assignments or if it was "more practical to start a work assignment from home." However, the May 1 version made no mention of commuting use as reportable income. General Counsel Donohue informed the Inspector General that this omission was an oversight.

The third policy, dated October 8, 2008, included revisions prompted by the Inspector General's request for a review. Still in effect today, it acknowledges the position of fleet manager and clarifies the fleet manager's responsibilities to assign vehicles and determine whether an employee may use a state vehicle to commute. It instructs the fleet manager, in making vehicle assignments, to consider the availability of secure overnight parking at the employee's work station and the employee's use of the vehicle. The policy also states, "Commuting to and from an employee's official work station is considered personal use of the vehicle." Enforcement Division personnel are not permitted to use their vehicles for personal business other than commuting. The policy prohibits use of state E-Z Pass for commuting but is silent on use of gasoline. Therefore, at present, employees are not required to reimburse the state for gasoline used for commuting. In 2008, the SLA paid a total of \$96,000 in fuel charges.

Under all three versions of the policy, employees were required to complete vehicle cost record forms whenever a state vehicle was used. The forms require starting and ending odometer readings, daily destinations and an indication of whether any miles were used for commuting. The October 8, 2008, policy designates the fleet manager responsible for reviewing the monthly forms and forwarding the information to the Office of General Services. Anderson was the fleet manager responsible for reviewing the monthly forms until he left the agency in December 2008.

In New York State, the State Comptroller distributes an annual Payroll Bulletin on the reporting of taxable value of commuting in a state vehicle. The Comptroller's Payroll Services Division also distributes a separate "taxable value" form requesting state employees to report personal and commuting use of their state vehicles for inclusion in state-issued W-2 forms. According to Comptroller officials, this form is required of all state employees who are assigned vehicles, including agency heads.

Furthermore, on May 21, 2007, then-Counsel to the Governor David Nocenti and then-Director of State Operation Olivia Golden distributed a memorandum to "All Agency Heads and Chamber Employees," specifically addressing segregation of business and personal mileage by senior state employees granted unrestricted use of the state vehicles, as well as associated tax obligations. Nocenti and Golden advised agency heads of IRS guidelines requiring them to "maintain a detailed log of all their business-related uses of the vehicle. Any mileage not reported as having a valid business purpose will be treated as imputed personal income to the employee, and all employees who have

² According to guidelines of the NYS Department of Budget, "State officials of cabinet rank and heads of agencies assigned a vehicle shall have unrestricted use of their assigned vehicles."

individually assigned vehicles must report the imputed income from non-business travel on their tax returns.” The memorandum continued, “Travel between home and work in an individually-assigned vehicle is generally not considered a business purpose, and thus must be included in the imputed income calculation (emphasis original).”

Tax Implications of Use of a State Vehicle

Except in certain narrowly-defined circumstances, unreimbursed personal or commuting use of an employer-owned vehicle is considered personal income that must be reported to the Internal Revenue Service on an employee’s annual W-2 form. According to IRS guidelines, employees must maintain records that differentiate between personal and business use of employer-owned vehicles. Lacking such records, any use that is not documented as business use is considered personal, taxable income. IRS guidelines state that it is “the employer’s responsibility to determine the actual value of this fringe benefit [personal or commuting use of a vehicle] and to include the taxable portion in the employee’s income.”

The IRS has defined certain vehicles for which personal use is not reportable as income, as the vehicle is not likely to be used more than a minimal amount for personal purposes. In general, these “qualified nonpersonal use vehicles” only include vehicles such as marked police cars, ambulances, school buses, tractors, and certain trucks.

As applicable to unmarked vehicles such as those employed by the SLA, the IRS defines qualified nonpersonal use vehicles as follows: “Unmarked vehicles used by law enforcement officers if the use is officially authorized, and the vehicle is used by a full-time law enforcement officer who regularly carries firearms, is authorized to carry firearms, execute warrants and make arrests.” SLA enforcement officers are not police officers, do not carry firearms, and do not execute warrants or make arrests. Accordingly, SLA vehicles do not qualify for the nonpersonal use exemption, and the personal benefit derived by employees from their use must be reported as taxable income.

General Counsel Donohue, in a memorandum to then-Chairman Boyle dated August 18, 2008, informed the chairman that SLA vehicles do not qualify for the exemption discussed above:

None of the vehicles operated by the Authority meets the definition of unmarked vehicles used by law enforcement officers. Therefore, the value of the commuting use of such vehicles is income to our employees. While I do not believe that the agency is required to review employee’s income tax returns to make sure that our employees are properly reporting such use, I believe it is necessary and appropriate for the agency to require all drivers to disclose and record all personal use of agency vehicles.

The IRS provides three methods for calculating income derived from personal use of a vehicle. Most SLA employees who are assigned vehicles qualify for the

“commuting rule.” If the car is used exclusively for business and commuting, the employee is considered to have received a benefit equal to \$1.50 per commuting trip, or \$3.00 per day, as taxable income, including fuel. The commuting rule is only available to employees earning less than \$143,000, and requires that the agency prohibit personal use of the vehicle other than commuting. Depending on the income of the employee and the use of the vehicle, the employer may also report personal or commuting income at 55 cents per mile, or may calculate such income based on the fair market value of the vehicle in question using tables published by the IRS.

For IRS purposes, commuting is considered travel between an employee’s home and permanent work station. There are no exceptions for executives, or public or law enforcement officials, even if they consider themselves to be continually on-duty. There are also no exceptions if work is performed en route, including planning or telephone calls. However, as relevant to this investigation, the Inspector General was informed by the counsel’s office of the State Comptroller that travel from an employee’s home to a temporary work station is not considered commuting. Moreover, where a commute between an employee’s permanent work station and his home involves a work-related stopover, the entire trip is considered business related.

Executive Use of Vehicles

As noted above, state guidelines permit agency heads, such as the SLA commissioners, unrestricted use of their assigned state vehicles. However, the Inspector General found varying usage and methods of reporting among the commissioners.

Boyle explained that he reported only starting and ending mileage for the month and did not differentiate between business and commuting mileage because he believed all his travel was business related, explaining that he was always conducting business, even while commuting. Boyle also said that he had numerous discussions with his accountant about this issue and his accountant agreed that all his travel was business related. Boyle stated that each week he traveled from his home in Syracuse to his work station in Albany. During the week Boyle resides in an apartment in Albany.³

General Counsel Donohue reported that he had advised Boyle on multiple occasions that he was required to report his commuting mileage as taxable but that Boyle protested that his personal accountant had advised otherwise. According to Donohue, Boyle also argued that he does not have to report commuting mileage because he is always working on the agency’s behalf. Despite Donohue’s statements to the Inspector General and the memorandum from Governor’s counsel, Boyle informed the Inspector General that he has never been given any “clear guidance” regarding vehicle use.

Contrary to Boyle’s assertion that none of his vehicle use is commuting miles, he provided the Inspector General with a copy of a 2008 “taxable value” and a memorandum dated January 2009 to the Office of General Services. Boyle claimed 78 trips on the form, with a taxable value of \$1.50 each under the special commuting rule. However, neither the Office of General Services nor the Comptroller has a record of receiving the form. Moreover, according to Boyle’s records, the form was sent after the 2008 W-2 forms were provided to state employees, and therefore the reported income could not

³ For instance, Boyle reported approximately 3,800 miles during November and December 2008.

have been included in Boyle's W-2. In addition, the Inspector General found that Boyle used an incorrect method of calculation. According to IRS guidelines, the special commuting rule is only available to an employee whose agency policy prohibits use of the vehicle for personal use. Because SLA's policy permits the commissioners to use their vehicles for personal use, they are not eligible for this method of calculation

Commissioner Greene was assigned a vehicle beginning November 2008. Therefore, Greene was not required to complete a taxable value form for 2008, as the period covered by the form ended October 31, 2008. Greene stated that she uses the vehicle primarily to commute to her New York City work station, and to travel to Albany and Buffalo for business meetings; however, on occasional weekends, she uses the car for personal use. Even though she clearly uses the vehicle for some business-related use, Greene reports all mileage as personal, thereby incurring greater tax liability – a choice that is entirely within her rights. Greene informed the Inspector General that she was instructed by an SLA staff member to report only starting and ending mileage for each month on vehicle mileage reports.⁴ However, in an abundance of caution, Greene reported that she later contacted the Office of General Services (OGS) to determine whether she was reporting her mileage correctly. OGS confirmed that she need not distinguish between commuter and business miles because she reports all usage as personal. Commissioner Greene, in her response to this report, stated that she still intends to report all miles as personal and incur all attendant tax implications even though she could legitimately claim, to her advantage, some usage as business-related.

Commissioner Healey listed her daily mileage and detailed her commuting mileage. Healey did complete a 2008 taxable value form reporting her commuting mileage for income tax purposes calculating her liability at \$1.50 per trip using the special commuting rule consistent with her temporary and restricted use vehicle assignment.⁵ In her response to this report, Healey stated: "Having been assigned a state vehicle with exclusive privileges as a Commissioner and head of agency for the first time during November 2008, I will report my 2009 mileage liability differently and as directed in your report." Indeed, since her unrestricted use vehicle assignment, Healey has correctly reported travelling about 800 miles in November and 700 miles in December, with approximately half devoted to commuting in each month.

The Enforcement Division's Use of Vehicles

The Inspector General reviewed monthly mileage logs for November and December 2008, and all taxable value forms filed by Enforcement Division employees assigned vehicles during this period. Investigators assigned to the Enforcement Division examine premises licensed by the board, and identify violations of the Alcoholic Beverage Control Law. Most investigators use their assigned vehicles almost daily to visit bars, restaurants, and liquor stores, often working in the evenings.

Vehicle use varied daily, as investigators sometimes traveled directly to the office and sometimes traveled to a field location. Enforcement officials reported that investigators have always been assigned vehicles and have been permitted to commute

⁴ For instance, Greene reported approximately 600 miles for the month of December, reporting only her starting and ending mileage for the month.

⁵ As a commissioner, Healey was entitled to an unrestricted vehicle for her entire tenure as commissioner; however, she was incorrectly provided a vehicle with temporary and restricted use.

because overnight parking is unavailable or unsecure near the agency buildings. As discussed above, this permission was not reflected in SLA's vehicle policy until May 1, 2008. Between October 1, 2003 and May 1, 2008, the vehicle policy prohibited commuting by all personnel except the commissioners.

Investigators report their activities in daily logs detailing their visits to liquor-serving locations, and complete individual activity reports for each location visited. Investigators also typically submit receipts if they have purchased alcohol at the visited location. The required mileage logs are separate, requiring the investigator to list some of the same information recorded in the daily investigative logs, along with vehicle mileage.

A preliminary review by General Counsel Donohue found that investigators were filing incomplete vehicle mileage reports. The Inspector General's subsequent review concurred. Some investigators failed to record mileage on a daily basis, while others failed to list destinations. Many did not list their residence as the overnight location for the state vehicle, as required. Where employees were asked to list the number of commuting mileage each day, many forms were blank.

Some investigators reported to the Inspector General that they did not complete the mileage forms because information regarding their daily whereabouts was already recorded in their daily investigative logbooks. Others stated they did not believe they were expected to complete the forms. One supervisor reported that he knew he was responsible for completing the form, but did not do so. Another investigator stated that his reports were "unreliable."

Former Fleet Manager Anderson was responsible for collecting vehicle mileage reports and making vehicle assignments based on employee usage, but he stated that it was not his responsibility to review vehicle mileage reports prior to October 2008. Anderson claimed that it was the supervisors' responsibilities, but the supervisors claimed that this was not so. Accordingly, there was no review of such records prior to October 2008. Anderson also stated that he reviewed gas and E-Z Pass usage of staff only on an "ad-hoc" basis.

Despite the incomplete vehicle mileage records, the Inspector General found that the vast majority of employees did complete the form requiring them to compute taxable value for their commuting benefit. The Inspector General's review of the SLA's 2008 forms found that all employees submitted this form, except for former Assistant Director of Enforcement Peter Person. (Person is discussed further below.) Investigators stated that they used their daily investigative logbooks to reconstruct their commuting trips for the year.

Although the forms were completed by most employees as required, the Inspector General found that the executive and enforcement staff did not have a complete understanding of rules related to vehicle commuting. As a result, they were inconsistent in their mileage reporting. Most employees recognized that a trip between home and their assigned work station was considered commuting mileage. However, the Inspector General interviewed three supervisors who offered different opinions. One supervisor opined that unless he spends the entire day in the office, a trip from home to the office is not considered commuting. Another supervisor posited that if he takes a business-related

phone call on the way, the commute qualifies as a business trip. A third supervisor stated that he believes that SLA's vehicles are qualified nonpersonal use vehicles under IRS guidelines, and that, since he is always on call, any travel to the office is business-related. This supervisor does not keep track of commuting mileage as required, but "to cover" himself he claims one to two weekly trips as commuting on his annual taxable value forms. Investigators and supervisors also reported differing interpretations as to whether a trip directly from home to a field location, or a trip to the office including a brief stopover, was considered commuting.

Abuses and Irregularities

In general, the Inspector General found that mileage reporting was inconsistent and, even if completed properly, the forms failed to provide sufficient information to ensure that all employees used vehicles appropriately. The form itself does not require a starting location or a case number or reason for travel. Also, the form is premised on the driver's making only one trip per day, and does not lend itself to accurate reporting of multiple trips.

The review also uncovered some irregularities and potential abuses. Primarily, the Inspector General identified instances in which employees were permitted to commute long distances in state vehicles. In some cases, there appears to be little business justification for these investigators to have been assigned vehicles, since the vehicles were used primarily for commuting.

Until recently, one investigator assigned to the New York City office was permitted to commute from her home near Albany in a state vehicle, approximately 300 miles per day. This investigator had little or no field responsibilities, and was therefore using the state vehicle almost exclusively for commuting. During 2008, the investigator traveled more than 41,000 miles in the state vehicle for which the SLA paid approximately \$5,500 for gas. The employee claimed a benefit of \$3 per day on the taxable value form, but did not indicate any commuting mileage during the first ten months of 2008 on her vehicle mileage logs. Beginning in early 2009, SLA required the investigator to park the vehicle at a state police location in Tarrytown over night, rather than at her Albany home.

The Inspector General identified other employees who used their vehicles for long commutes. One now-retired investigator drove a state vehicle 13,609 miles over eight months in 2008. During this time, the investigator recorded fewer than 300 miles for business travel. The remaining 13,316 miles were devoted to commuting between his home and his assigned work location, a distance of 70 miles each way. Another investigator, who lives 45 miles from his assigned work location, listed commuting miles only for the last three months of 2008. For these months, the investigator averaged 83 percent commuting usage. Yet another enforcement staff member, who resides 69 miles from his work station, logged commuting mileage for only the last three months of 2008 and reported almost 6,700 miles during the period; 45 percent for commuting.

The Inspector General also identified instances in which investigators' reported mileage did not correspond to the recorded destinations. Such inconsistencies could indicate improper vehicle use and should be monitored by SLA's fleet manager. For example, one investigator reported 30 commuting miles on each of four days in

November, although the distance from his home and his work location is 16 miles, leaving 14 miles of travel unexplained on each of these days. Another investigator reported varying daily mileage from 130 to 161 miles. The distance between the investigator's home and work location is approximately 138 miles round trip. No explanation was provided for the variation in the logs. In some instances, individuals did not account for all the mileage incurred during a particular day or month. In other cases, investigators only listed a county as a destination each day, while others listed no destination at all. Four of the seven investigators assigned to enforcement in Buffalo listed only a county as a destination each day.

Assistant Enforcement Director Peter Person

Until his resignation in March 2009, former Assistant Enforcement Director Peter Person's official workstation was SLA's New York City office in Manhattan. Each week, Person was permitted to commute in his state vehicle between Manhattan and his home in Keeseville, New York, nearly 300 miles away. Typically, Person left Keeseville for New York City on a Sunday or Monday and returned to Keeseville on Thursday or Friday afternoon.⁶ The vehicle would remain in Keeseville through the weekend. During the work week, Person commuted to a relative's residence on Long Island, approximately 54 miles from the New York City office.

In 2008, Person traveled more than 56,000 miles in a newly-purchased state vehicle, with the state paying almost \$6,000 in gas expenditures. Person's weekly trip to and from Keeseville, combined with a minimum of three trips to Long Island each week amounts to approximately 750 commuting miles per week.

Person's mileage logs are plagued with errors and inconsistencies, with mileage that does not correspond with his stated destination. Between January and September 2008, Person claimed no commuting miles even though his mileage records record his destination as his residence in Keeseville on 11 days. (Keeseville, a town of less than 2,000 residents, is far from Person's Manhattan workstation, and it is extremely unlikely that Person routinely had official business in Keeseville during this time.) In October, Person began documenting some commuting miles. However, he still reported just 856 commuting miles, despite accumulating almost 13,000 miles. Person did not fill out a taxable value form and accordingly no taxable commuting benefit was incorporated in his W-2 for 2008.

Former Fleet Manager Anderson received Person's vehicle records, but stated that he never approved nor questioned the documents. General Counsel Donohue stated that he had believed Person drove to Keeseville in his personal vehicle on weekends. Donohue stated, "It would seem unimaginable to me that we would be letting someone drive a state car home on the weekend, when they live – however far it is." Boyle said that while he knew Person lived in Keeseville, he believed Person resided in Long Island during the week. Boyle also stated that he was aware that Person may have taken his state vehicle to Keeseville on some weekends, but not every weekend. Further, Boyle agreed with the Inspector General that any trip Person made from the New York City

⁶ The Inspector General received no evidence or allegation indicating that Person did not fulfill his scheduled weekly hours.

office or Long Island to Keeseville should be considered commuting mileage and reported as such, adding that Person “should have known better.”

Under applicable rules and guidelines, prior to permitting an employee to utilize a state-owned vehicle for commuting, an agency is required to analyze whether the assignment is based upon a valid business reason (such as lack of space to store the vehicle, the need for the employee assigned the vehicle to respond to emergency calls, or the security of the vehicle) and engage in a cost-benefit analysis to determine whether the vehicle assignment is economically reasonable.

Prior to the May 2008 revision of SLA policy, with the exception of the three commissioners, SLA employees were prohibited from commuting in state vehicles; therefore, prior to May 2008, Person’s use of a state vehicle for his long-distance commute from New York City to Keeseville directly violated agency policy. While the May 2008 revision permitted commuting in certain circumstances, it is difficult to discern a valid business rationale for Person’s commute 300 miles north of his official work station or the cost-effectiveness of paying for the gas for this extraordinary commute.

In regard to the other SLA personnel assigned vehicles, accurate record keeping is a prerequisite for adequate analysis of the underlying business reason and cost-effectiveness of a vehicle assignment. SLA’s lax record keeping and corresponding lack of internal review of vehicle use prevented the required analysis from being performed in any meaningful manner.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that SLA employees failed to accurately and fully report their vehicle mileage as required by SLA’s vehicle policy. This failure hinders SLA from monitoring and preventing unauthorized use and has led to inaccurate reporting, or lack of reporting, of taxable benefits received by SLA employees. In addition, the Inspector General found that SLA allowed several employees to use state vehicles primarily to commute long distances. In these instances, the agency incurred expenses out of proportion to the benefit it received from having these employees park and maintain the vehicles.

The Inspector General recommended that SLA further revise its vehicle policy to clarify rules and employee obligations in distinguishing business and commuting mileage, and provide training to employees regarding the policy. The Inspector General also recommended that SLA review the format of vehicle mileage logs to ensure that all necessary information is requested and that the format is appropriate to the information being recorded. The forms should require employees to list both starting and ending destinations for each trip, and require a case number or other reason for each trip. The agency may wish to consider combining this report with the required daily investigative logs to eliminate duplicate paperwork.

The Inspector General also found that the vehicle policy in place was unenforced, and that forms completed by employees were not reviewed for completeness or accuracy or audited to identify potential improper use. The fleet manager should review all vehicle mileage forms for accuracy and completeness and supervise periodic audits of employee

vehicle usage and gas purchases. Fields such as “destination” should be filled out identifying the exact address, rather than a county name. In response to this report, then-Chief Executive Officer Woody Pascal, who had also assumed the role of fleet manager, informed the Inspector General that he requested permission to hire a chief fiscal officer and that OGS conduct an audit.⁷

With regard to specific SLA executives, the Inspector General found that former Chairman Boyle did not file a timely taxable value form in 2008, and former Assistant Enforcement Director Peter Person did not submit a taxable value form for 2008. Consequently, both may have underreported their incomes to tax authorities. The Inspector General will provide these findings to the New York State Department of Taxation and Finance.

The Inspector General advised that all SLA employees, including the commissioners, should accurately complete and submit taxable value forms to the State Comptroller for inclusion in employee W-2 forms. As discussed above, the plain language of the IRS guidelines reveal that SLA vehicles are not qualified nonpersonal use vehicles. Therefore, all SLA employees who commute in state vehicles, including the commissioners, are required to report commuting trips as taxable fringe benefits. Any trip between an SLA employee’s home and his or her official work station is considered a taxable commute, regardless of whether a telephone call or other business is conducted in the car, although trips between home and temporary work station or a field location may be considered business. To this end, according to Pascal’s response to the Inspector General’s report:

The ABC has posted the division’s vehicle policy on its intranet site to ensure that it is easily accessible to all of its employees. ABC Staff that uses fleet vehicles were requested to attend a training session led by Counsel Donohue to review the revised (10-8-08) fleet management policy. Further, employees were requested to acknowledge receipt stating that they had received and reviewed the most current policy.

Finally, the Inspector General recommended that SLA establish policies limiting the commuting miles that can be incurred at the state’s expense by an individual, and review vehicle assignments to ensure that such assignments are warranted based on the individual’s work responsibilities.

⁷ As of August 19, 2009, Woody Pascal’s resignation was accepted by the board; newly sworn-in Chairman Dennis Rosen named Catherine Trina Meade as his replacement.

