

STATE OF LOUISIANA

OFFICE OF STATE INSPECTOR GENERAL



LOUISIANA PROPERTY ASSISTANCE AGENCY HOME STORAGE OF STATE-OWNED UNMARKED VEHICLES

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File No. 2-07-0002

STATE OF LOUISIANA

OFFICE OF
STATE INSPECTOR GENERAL



LOUISIANA PROPERTY ASSISTANCE AGENCY
HOME STORAGE OF STATE-OWNED
UNMARKED VEHICLES

Stephen B. Street, Jr.
State Inspector General

Approved by:
 **Governor Bobby Jindal**

May 22, 2008

File No. 2-07-0002

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BOBBY JINDAL
GOVERNOR

STEPHEN B. STREET, JR.
STATE INSPECTOR GENERAL

State of Louisiana
Office of the Governor
Office of State Inspector General

May 22, 2008

Honorable Bobby Jindal
Governor of the State of Louisiana
P.O. Box 94004
Baton Rouge, LA 70804-9004

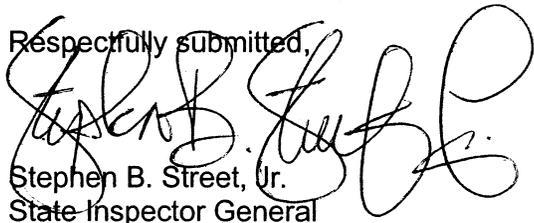
Re: Case No. 2-07-0002

Dear Governor Jindal:

This report addresses concerns raised about home storage assignment of state-owned, unmarked vehicle. The report includes six recommendations that, if implemented, could improve the effectiveness and efficiency of the State Fleet Management Program.

We provided drafts of the report to Ms. Susie Barthel, Director for Louisiana Property Assistance Agency, and Ms. Angele Davis, Commissioner of Administration. Their combined Division of Administration written response is included as Appendix A.

Respectfully submitted,


Stephen B. Street, Jr.
State Inspector General

SBS/GL/AMD
Enclosure

Executive Summary

Review Initiation

On June 6, 2007, the Office of State Inspector General began an operational review of the State Fleet Management Program.

The objectives of our review focused on home storage assignment of state-owned, unmarked vehicles (no state or agency decal with non-public license plate) and were limited to:

- Evaluating the effectiveness of policies and procedures established to maintain control over vehicle assignment and usage, and
- Evaluating procedures used to ensure compliance with state and federal reporting requirements for personal use of state vehicles as a non-cash fringe benefit for tax purposes.

Review Results

- The State Fleet Management Program does not have adequate functioning policies and procedures to ensure that:
 - Agency Transportation Coordinators annually obtain completed Division of Administration (DOA) Form MV-2s (Request for Personal Assignment and/or Home Storage of State-Owned Vehicle), and forward the documents to the State Fleet Manager for approval prior to home storage assignment of a state-owned vehicle to an employee as required by state regulation.
 - Reasons/justifications noted on DOA Form MV-2s for the home storage assignment of all state-owned vehicles are accurate and consistent with duties and responsibilities disclosed in official job descriptions of the individuals assigned home storage of a state-owned vehicle.
 - Appropriate exceptions granted for home storage of state-owned vehicles are submitted in writing to the State Fleet Manager and subsequently forwarded with recommendations to the Commissioner of Administration for approval by the Commissioner and Joint Legislative Committee on the Budget as required by state regulation.
 - DOA Form MV-3 (Daily Vehicle Usage Log) prepared by individuals assigned home storage of state-owned vehicles are: (a) prepared to properly record business and personal vehicle usage, (b) audited and

approved by the appropriate supervisor, and (c) received by the agency Transportation Coordinator by the third working day of the month following the month to which the report pertains as required by state regulation.

- All state-owned vehicles except those exempted by law, or vehicles used in crime prevention, detection and investigative work, which if identified could not be used effectively, have the name of the owning agency, board, commission or political subdivision stenciled, painted or affixed on both sides of the vehicle.

- The Division of Administration does not have adequate procedures to ensure non-cash fringe benefits (State Vehicle Usage) are properly valued, classified, and reported as taxable or non-taxable fringe benefits. Policy and Procedure Memorandum (PPM) No. 73 requires agencies report specific information about employee non-cash fringe benefit to the Commissioner of Administration. The Office of Statewide Reporting and Accounting Policy (OSRAP), designated by the Commissioner of Administration, usually requires that the report be submitted to it in February of each calendar year. However, OSRAP does not use procedures designed to provide reasonable assurance that the information received is accurate and in compliance with PPM No. 73 and Internal Revenue Service Publication 15-B.

Background

LSA-R.S. 39:361 states, “The Division of Administration shall establish, develop, and administer a program for the management of motor vehicles used by state employees. The purpose of this program shall be to provide motor vehicle and related services to the state and to maintain safe, dependable, and cost effective transportation for state employees who require the use of passenger vehicles in the performance of their job responsibilities. This program shall be known as the Fleet Management Program.”

In accordance with the responsibilities and authority vested in the DOA by Louisiana Revised Statutes, the Commissioner of Administration developed and issued the following regulations pertaining to Fleet Management and the reporting of state vehicle personal use as a fringe benefit for tax purposes:

- Title 34 Government Contracts, Procurement and Property Control, Part XI. Fleet Management
- Title 4 Administration Part V. Policy and Procedure Memoranda, Chapter 41. Taxable Compensation-PPM No. 73

Title 34, Part XI designates Louisiana Property Assistance Agency (LPAA), an agency within the DOA, as responsible for Fleet Management functions. In addition, it establishes that the State Fleet Manager, an employee of LPAA, is responsible for ensuring that control is maintained over the operation of the Fleet Management Program. Furthermore, Title 34, Part XI states, “It shall be the responsibility of the state fleet manager to conduct random audits to verify agency compliance with the statewide policies regarding:

- I. Personal assignment of fleet vehicles;
- II. Home storage of fleet vehicles;
- III. Employee mileage reimbursement for use of privately owned vehicles on state business; and
- IV. Minimum preventive maintenance standards as set forth in the Fleet Vehicle Operator’s Manual.”

Title 34, Part XI also states that the personal use of a state-owned vehicle is prohibited with the exception of home storage commute miles if approved by the Commissioner of Administration via the DOA form MV-2.

Title 4, Part V, Chapter 41 defines personal usage of a state-owned vehicle as a fringe benefit. It also establishes a policy for reporting taxable compensation and provides agency head with guidelines for inclusion or exclusion of fringe benefits as taxable compensation.

Scope and Methodology

The scope of our review was limited to state-owned, unmarked vehicles that were assigned as home storage units to state employees during the fiscal year that ended June 30, 2007. Our review consisted of the following procedures:

- Review of laws, regulations, publications, and guidelines pertaining to the assignment, usage and, identification of state-owned vehicles;
- Risk assessments and judgmental sampling;
- Examination of Request for Personal Assignment and/or Home Storage of State-Owned Vehicle (DOA Form MV-2) and Position Descriptions (Form SF-3);
- Examination of Daily Vehicle Usage Logs (DOA Form MV-3) and related supporting documents;
- Review of agency prepared Fringe Benefits Reports and selected employees' Form W-2 for the 2006 calendar year;
- Review of Compliance Audit Reports prepared by LPAA;and
- Interviews with employees assigned home storage, their managers, and LPAA officials.

Statewide Fleet Management Policies And Procedures Established To Ensure And Verify Agency Compliance Are Not Adequate And Functioning

Louisiana Administrative Code Title 34, Part XI denotes the agency head is ultimately responsible for the operation of the Fleet Management Program within each respective agency. The code also states the State Fleet Manager is responsible for the implementation, monitoring, and overall administration of the Fleet Management Program, and for conducting random audits to verify agency compliance with statewide policies regarding personal assignment, home storage, and usage of private and state-owned vehicles.

Our review of records pertaining to the home storage assignment, usage, and identification of state-owned vehicles at selected agencies and commissions identified areas of non-compliance, and weak, practically non-functioning controls designed to detect and report non-compliance with Fleet Management Program requirements. As a result, the Commissioner of Administration and agency heads do not have reasonable assurance that state-owned vehicles are provided to state employees who need designated types of vehicles to perform their job responsibilities, or that vehicle usage is provided in the most cost-effective and efficient manner.

The conditions noted below were presented and discussed in individual formal conferences. Each of the agencies/commissions concurred with the statements. The Department of Wildlife and Fisheries provided a written response (See Appendix A) which it stated added clarifying information to its concurrence.

Louisiana Attorney General's Office

1. Title 34, Part XI requires review and approval of DOA Form MV-3s by the appropriate supervisor. Our review of MV-3s submitted during the 2006-07 fiscal year determined the reports did not always contain evidence of required supervisory review and approval.
2. Title 34, Part XI requires drivers to record accurate information on miles traveled in state-owned vehicles on DOA Form MV-3. Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers only recorded vehicle usage on days when they incurred expenses for fuel and/or maintenance.
3. Instructions printed on the face of DOA Form MV-3 require drivers to record "Locations where trips began: **all points visited** (unless did not

leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.).” Our review of MV-3s submitted during the 2006-07 fiscal year determined the drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.

Louisiana Motor Vehicle Commission

1. Instructions printed on the face of DOA Form MV-3 require drivers to record “Locations where trips began: **all points visited** (unless did not leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.).” Our review of MV-3s submitted during the 2006-07 fiscal year determined the drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.
2. Title 34, Part XI states, “Annually, it shall be the responsibility of the agency transportation coordinator to insure that a Home Storage Agreement form (DOA form MV-2) is completed and forwarded to the state fleet manager by May 1 and is signed and approved by the commissioner in order to continue home storage into the new fiscal year beginning July 1.” Our review determined MV-2s were not completed and submitted to the State Fleet Manager for employees assigned state-owned vehicles with home storage privileges during the year beginning July 1, 2006 and ending June 30, 2007.

Office of Youth Development

1. Title 34, Part XI outlines specific conditions that must be satisfied for home storage assignment of state-owned vehicles. Our review determined some individuals assigned home storage benefits during the fiscal year ended June 30, 2007 did not satisfy conditions for home storage assignment. The employees reported they stored their state-owned assigned vehicles overnight at the central office and used their personal vehicles to commute to the central office.
2. LSA-R.S. 49:121 requires state-owned vehicles bear public license plates and have the name of the owning agency inscribed, painted, decaled or stenciled conspicuously on the vehicle, unless the vehicle is used in crime prevention, detection and similar investigative work, which if identified as required by this statute could not be used effectively. Furthermore, the statute states, “The head of any department or board of the state or any of its subdivisions who operates or who orders, requests or permits any employee under his control or supervision or any other person to operate

any publicly owned land vehicle, water craft or air craft not marked in accordance with the provisions of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense.”

Our review determined some employees assigned unmarked vehicles with private license plates during the fiscal year ended June 30, 2007 reported they did not require an unmarked vehicle to perform their duties during the year.

3. Title 34, Part XI requires review and approval of DOA Form MV-3s by the appropriate supervisor. Our review of MV-3s submitted during the 2006-07 fiscal year determined the reports did not always contain evidence of required supervisory review and approval.
4. Instructions printed on the face of DOA Form MV-3 require drivers to record “Locations where trips began: **all points visited** (unless did not leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.)” Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.

Louisiana Recreational & Used Motor Vehicle Commission

1. Instructions printed on the face of DOA Form MV-3 require drivers to record “Locations where trips began: **all points visited** (unless did not leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.)” Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.
2. Title 34, Part XI, requires the appropriate supervisor audit and approve DOA Form MV-3. Our review disclosed that on sixteen (16) occasions, an employee reported mileage to and from assignment locations that were greater than estimated distances we obtained using Map Quest. The excesses were between twenty-eight (28) and three hundred eighteen (318) miles on each occasion and cumulatively equaled one thousand four hundred seventy-three (1,473) miles. On one occasion, the same employee reported to and from mileage for an assignment that was one hundred fifty-two (152) mile less than the estimated distance we obtained.

Public Safety – Corrections

1. Title 34, Part XI outlines specific conditions that must be satisfied for home storage assignment of state-owned vehicles. Our review of DOA Form MV-2s submitted and approved for the 2006-07 fiscal year determined the employee's corresponding SF-3 (Position Description) did not always disclose specific responsibilities or duties that indicated or suggested home storage assignment of a state-owned vehicle was required for effective/efficient job performance.
2. Title 34, Part XI requires review and approval of DOA Form MV-3s by the appropriate supervisor. Our review of MV-3s submitted during the 2006-07 fiscal year determined the reports did not always contain evidence of required supervisory review and approval.
3. Instructions printed on the face of DOA Form MV-3 require drivers to record "Locations where trips began: all **points visited** (unless did not leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.)." Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.

Public Safety – State Police

1. Title 34, Part XI outlines specific conditions that must be satisfied for home storage assignment of state-owned vehicles. Our review of DOA Form MV-2s submitted and approved for the 2006-07 fiscal year determined the employee's corresponding SF-3 (Position Description) did not always disclose specific responsibilities or duties that indicated or suggested home storage assignment of a state-owned vehicle was required for effective/efficient job performance.
2. Title 34, Part XI requires drivers to record accurate and complete information on miles traveled in state-owned vehicles on DOA Form MV-3. Our review determined that Louisiana Property Assistance Agency granted the State Police a temporary exemption from entering fleet data until January 1, 2008. The State Police did not use Form MV-3 to record the use of state-owned vehicles for individuals included in our sample.

Wildlife & Fisheries

1. LSA-R.S. 49:121 requires state-owned vehicles bear public license plates and have the name of the owning agency inscribed, painted, decaled or

stenciled conspicuously on the vehicle, unless the vehicle is used in crime prevention, detection and similar investigative work, which if identified as required by this statute could not be used effectively. Furthermore, the statute states, "The head of any department or board of the state or any of its subdivisions who operates or who orders, requests or permits any employee under his control or supervision or any other person to operate any publicly owned land vehicle, water craft or air craft not marked in accordance with the provisions of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense."

Our review of specific documents and conferences with two (2) individuals included in our test that were assigned home storage of unmarked vehicles, determined they required an unmarked vehicle to perform their duties less than six (6) times during the year ending June 30, 2007. Specifically, the first individual's MV-3s (Daily Mileage Logs) reported the vehicle was driven at least 22,754 miles during the year, of which, 16,163 miles or 71% represented commute miles. The second individual's MV-3s reported his vehicle was driven at least 17,048 miles during the year, of which, 9,932 miles or 58% represented commute miles. Operating costs reported for the two vehicles was at least \$3,719.31 and \$2,784.97 respectively.

2. Instructions printed on the face of DOA Form MV-3 require drivers to record "Locations where trips began: **all points visited** (unless did not leave state property grounds), where trip ended; **purpose of trip** (meeting, site visit, etc.)." Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers did not always report **all points visited or the purposes of the trips**. As a result, the MV-3s did not adequately document that the vehicles were used only for approved purposes.
3. Title 34, Part XI outlines specific conditions that must be satisfied for home storage assignment of state-owned vehicles. Our review of DOA Form MV-2s submitted and approved for the 2006-07 fiscal year determined the employee's corresponding SF-3 (Position Description) did not always disclose specific responsibilities or duties that indicated or suggested home storage assignment of a state-owned vehicle was required for effective/efficient job performance.

Conclusions:

1. The heads of agencies, elected "officials" and commission executive directors for the entities included in our review have not adequately enforced adherence to state law and regulations pertaining to the assignment, identification, and usage reporting of state-owned unmarked vehicles.

2. We were unable to obtain sufficient evidence that indicated the State Fleet Manager, an employee of Louisiana Property Assistance, established an adequate, functioning program to monitor compliance with statewide policies regarding home storage assignment and usage of unmarked vehicles, or for planning and conducting operational audits of agency Fleet Management Programs.
3. The Commissioner of Administration does not have reasonable assurance that home storage of state-owned unmarked vehicles is permitted only in individual situations, in which the cost savings to the state is substantiated, or in which the health and welfare of the general public are essentially affected, or in which it is in the best interest of the state.

Recommendations:

The Commissioner of Administration should consider requiring and facilitating full implementation and monitoring of the following recommendations:

1. The State Fleet Manager should reemphasize to individuals involved with the request for personal assignment or home storage of state-owned vehicles of the need to provide accurate information on Form MV-2. Specific attention should be drawn to the following statement printed on the face of the form, "By signing this agreement, the Agency Head, Transportation Coordinator, and State employee attest to the accuracy of the information which is subject to audit or investigation at any time. Additionally, the State Fleet Manager should (during Fleet Management Compliance Audits) consider performing audit procedures designed to confirm the validity of the attestations provide for the home storage assignment of a state-owned vehicle.
2. **Home storage assignment** of state-owned "unmarked" (no state or agency decal with non-public license plate) vehicles should only be available for state employees who require unmarked vehicles in crime prevention, detection and similar investigative work, which if marked as required, could not be used effectively. The State Fleet Manager should (during Fleet Management Compliance Audits) consider periodically performing audit procedures designed to produce a basic schedule that discloses the percentages of use that pertained to commuting, crime prevention/investigative work, and other work related tasks for unmarked, home stored, state-owned vehicles. The schedule should be included as part of the audit report forwarded to the Agency Head and Fleet or Property Manager.
3. The heads of agencies, elected "officials" and commission executive directors should stress the importance of adhering to state laws,

regulations and guidelines pertaining to the assignment, identification, and usage reporting of state-owned unmarked vehicles, and consider sanctioning state employees who continually fail to properly complete DOA Forms MV-2 and MV-3.

4. The State Fleet Manager should prepare and submit an annual audit plan (supported by a risk assessment analysis and specific detailed planned audit procedures), and the corresponding budget required to adequately fulfill his/her responsibilities outlined in Title 34, Part XI. Fleet Management, pertaining to: (a) Program Planning, (b) Program Operations, and (c) Program Control.

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Controls Over The Valuation And Reporting Of Non-Cash Fringe Benefits Need Improvement

Louisiana Administrative Code, Title 4, Part V, Chapter 41 (Taxable Compensation – PPM No. 73) defines personal use of a state-owned vehicle as a fringe benefit, and provides the heads of agencies, board, and commissions with guidelines for inclusion or exclusion of fringe benefits as taxable compensation. In addition, in accordance with PPM No. 73, agencies are required to report to the Commissioner of Administration specific information pertaining to employee fringe benefits.

IRS Publication 15-B requires employers establish the value of the fringe benefit (personal use of an employer-provided vehicle) provided, and to determine if the amount is taxable or non-taxable compensation.

The Office of Statewide Reporting and Accounting Policy (OSRAP), the office designated to receive fringe benefits data from state agencies, requires the report to be submitted to it in January of each calendar year. However, we could not obtain any evidence, that indicated OSRAP used procedures designed to provide reasonable assurance that the information received is accurate and in compliance with PPM No. 73 and IRS Publication 15-B.

We requested OSRAP provide fringe benefits reports for the calendar year ended December 31, 2006 for the agencies included in our review of state-owned, unmarked vehicles.

The conditions noted below were presented and discussed in individual formal conferences. Each of the agencies/commissions concurred or conditionally concurred with the statements.

Public Safety – Corrections

Some employees assigned home storage of unmarked vehicles with private license plates were not included on the fringe benefits report submitted to OSRAP for the calendar year ended December 31, 2006

Office of Youth Development

The agency reported commute use of the state-owned unmarked vehicles assigned to employees included in our sample as a nontaxable fringe benefit in accordance with Treasury Regulation § 1.2745T(k) (6). See 26 C.F.R. § 1.274-5T. The IRS Regulation exempts individuals classified as “Law Enforcement

Officers”; however, based on our review of IRS’s definition of “Law Enforcement Officer” and specific information obtained in interviews from the employees included in our sample, we determined they did not meet IRS’s requirements to be classified as “Law Enforcement Officers.”

Louisiana Attorney General’s Office

The employees in our sample that were assigned home storage of unmarked vehicles with private license plates were not included on the fringe benefits report submitted to OSRAP for the calendar year ended December 31, 2006.

Conclusions:

4. Our review determined a decentralized administrative control system is used to classify non-cash fringe benefits associated with home storage assignment of state-owned vehicles, as taxable or non-taxable compensation. The decentralized system produced inconsistent and incomplete information, and in some instances, misapplication of specific parts of Louisiana Administrative Code – PPM No. 73 and IRS Publication 15-B, which resulted in the understatement of taxable compensation for some state employees.
5. We were unable to locate verifiable evidence that indicated OSRAP used procedures designed to provide reasonable assurances that the information it received was accurate and in compliance with Louisiana Administrative Code – PPM No. 73 and IRS Publication 15-B

Recommendations:

5. The Commissioner of Administration should require the Office of State Uniform Payroll (OSUP), OSRAP and LPAA to collaborate in order to design and implement a centralized system for reviewing and approving the valuation and classification of fringe benefits as taxable or non-taxable compensation.
6. Each entity included in this report with employees with misstated taxable compensation amounts for the calendar year ended December 31, 2006, should forward the correct totals to OSUP. Additionally, they should perform additional procedures to determine if similar errors occurred in previous and subsequent years, and if applicable, report their findings.

APPENDIX A

Responses

Division of Administration's Response

BOBBY JINDAL
GOVERNOR



ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of the Commissioner

May 14, 2008

Mr. Stephen B. Street, Jr.
State Inspector General
Office of State Inspector General
P. O. Box 94095
Baton Rouge, LA 70804

Re: Case No. 2070002

Dear Inspector General Street:

Thank you for the opportunity to respond to your audit report titled Division of Administration, Louisiana Property Assistance Agency, Home Storage of State-Owned Unmarked Vehicles.

The Division of Administration disagrees with your overall finding that the statewide fleet management policies and procedures established to ensure and verify agency compliance are not adequate and functioning. Your report does not address deficiencies in existing policies and procedures, but instead focuses on instances of non-compliance within certain agencies. Your generalized conclusion that this office does not have "adequate procedures to ensure" compliance with existing law simply is not supported. Ensuring compliance requires greater cooperation and discipline at the agency level, not the creation of more rules and regulations to augment the clear mandates that already exists. LPAA's compliance program's primary purpose is to ascertain whether or not state agencies are complying with moveable property rules and regulations. Our four compliance officers examine over 519,000 moveable property records valued at over \$2.4 billion dollars. LPAA has addressed such issues as improper vehicle decals, travel logs not being properly completed, and unauthorized passengers.

In addition, while the Office of Statewide Reporting and Accounting Policy (OSRAP) does receive reports on fringe benefits data, we do not concur with the conclusions that a decentralized system has produced inconsistent and incomplete information. OSRAP has procedures in place for gathering and reviewing fringe benefits data as provided by the various agencies.

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However, we do agree with your most of your recommendations that seek to ensure that department heads and their employees are using state vehicles for state business and that any personal use of a state vehicle that is taxable to the employee is properly reported.

PPM 73 clearly places the responsibility on agency heads for ensuring that fringe benefits are adequately valued and reported with appropriate tax withholdings for compensation provided to employees. It even provides for payment of any tax liability from the agency's budget should it fail to adequately report these benefits.

The recommendations listed in your report are reviewed below along with corrective actions, if necessary.

Recommendation 1

LPAA concurs with the recommendation that "the State Fleet Manager should reemphasize to individuals involved with the request for personal assignment or home storage of state-owned vehicles of the need to provide accurate information on the Form MV-2."

Corrective Action: By June 30, 2008, the State Fleet Manager will send a letter to all agency heads. This letter will stress the agency heads' and their respective staff's responsibilities in regards to home storage/personal assignment requests. In addition, the Compliance Supervisor will place heavier emphasis on this issue during future fleet management training sessions.

Recommendation 2

LPAA partially concurs with this recommendation. We agree that unmarked cars should only be used in crime prevention, detection, or similar investigative work, as provided in state law. For clarity, agencies receive permission from LPAA to "home store" a vehicle when they meet criteria outlined under LSA-R.S. 39:362(B)(2)(a)(i-v). Permission to home store a state vehicle automatically provides that the vehicle is personally assigned to that individual. Individuals make a request for home storage; the agency transportation coordinator and the agency head sign off on that request before submitting it to the Commissioner of Administration for review and approval. However, LSA-R.S. 49:121, the statute governing

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unmarked vehicles, is not part of the statutes governing the state fleet management program. This statute charges each agency head, Office of the Attorney General, or the appropriate district attorney's office with ensuring compliance with rules applicable to unmarked vehicles, not the Commissioner of Administration.

Attorney General Opinion No. 81-801 (see pages 3-5 of the Attachment) supports the fact that the decision to not mark a vehicle rests entirely on the agency head. The opinion states the following:

"[T]he Division of Administration has no authority in law to deny a request for private license plates for State vehicles as submitted by agencies and departments."

The opinion also says:

"The apparent legislative intent is to permit the agency or department to determine when an identified vehicle would preclude its effective use...it only stands to reason that the agency or department so charged is in the better position to make this determination."

Unmarked vehicles are not automatically approved for personal assignment or home storage. The distinction that needs to be made here is that the agency head decides which vehicles will be unmarked. The Division of Administration only approves home storage requests. Clearly, the audit's recommendation that the State Fleet Manager "conduct periodic audits to determine the percentages of use ... for unmarked vehicles" runs contrary to what LSA-R.S. 49:121 and multiple attorney general opinions (see Attachment) have to say regarding this subject.

Our concern is that the recommendation attempts to address home storage and unmarked vehicles as a single issue; when in fact, they are separate issues governed by different statutes. It should be noted that 81.4% of home storage approvals are for law enforcement personnel. The Division of Administration has always allowed law enforcement agencies to deploy their vehicles as the agency head sees fit to best protect and serve Louisiana citizens.

Corrective Action: None required. The Division of Administration does not have authority to determine whether a vehicle should or should not be unmarked. Therefore, it would serve no purpose for our compliance auditors to determine usage of unmarked cars any differently than usage of marked cars.

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Recommendation 3

LPAA concurs with this recommendation as with all laws, regulations, and guidelines. Agency heads, elected officials and commission executive directors should stress the importance of adhering to all laws, rules, and regulations governing the assignment, identification, and usage reporting of state-owned unmarked vehicles, and consider sanctioning those continually failing to properly complete MV-2 and MV-3 forms. The State Fleet Manager will address these issues in the letter discussed above in Recommendation 1.

Corrective Action: None required.

Recommendation 4

LPAA partially concurs with this recommendation. While improvements are always possible, overall, LPAA believes that with a staff of only four compliance officers, it is doing a better than adequate job of monitoring the State's fleet for compliance issues and assisting agencies in gaining compliance.

LPAA believes an audit plan is already in place to address property and fleet management programs. During a normal compliance review, LPAA's staff examines the agency's property and fleet records, purchasing records, and database reports. Over the past four years, LPAA's four compliance officers have conducted 173 compliance reviews. One hundred two (102) of those reviews yielded fleet-related findings ranging from minor infractions to more significant violations.

Corrective Action: No specific action required.

As a rule, the LPAA compliance staff does not "investigate" specific issues. Our role will continue to be that of informing agencies when weaknesses are discovered and offering to assist them in gaining compliance as quickly as possible. Accordingly, our compliance staff will continue to perform random reviews of property and fleet records to determine compliance.

In addition, the State Fleet Manager will continue forwarding allegations of fleet misuse or abuse to the appropriate agency head for his or her response. In those instances, our role is to determine if the agency head investigated the complaint and provided an appropriate response to the allegation.

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Recommendation 5

OSRAP does not concur with this recommendation. Each year, OSRAP sends a memorandum to agencies giving them very specific guidance on how to report these types of benefits. OSRAP does not approve the valuation and classification of fringe benefits; agency heads do.

PPM 73 directs agency heads to develop a plan each year that outlines conditions under which an employee will receive any compensation other than salary, wages, or per diem (in the case of board members). In addition, PPM 73 gives the agency heads guidance on how to value the various types of fringe benefits for inclusion on the employee's W-2. When the agencies submit fringe benefit reports to OSRAP, they are reviewed. OSRAP has a system in place to review the valuation and classification of taxable and non-taxable fringe benefits. When problems are found, OSRAP notifies the agency of the necessary corrective action (See Attachment pages 12-15). Furthermore, OSRAP's Memorandum 08-11 and Office of State Uniform Payroll (OSUP) Memorandum 2008-11 both provide guidance on the proper reporting methods and wage types for agencies to use for the various types of fringe benefits, both taxable and non-taxable.

Recommendation 6

OSRAP concurs with this recommendation.

Thank you for the opportunity to provide the Division of Administration's response.

Sincerely,



Angele Davis
Commissioner of Administration

AD

Attachments

Office of the Attorney General
State of LOUISIANA

Opinion No. 80-1232
September 18, 1980

112 STATE--PROPERTY & PRESCRIPTION R.S. 49:121A & E
Automobiles used for surveillance and pursuit of escaped inmates by the
Department of Corrections' officials qualify for exemption found at R.S.
49:121E.

Honorable James David Cain
Representative
District 32
Post Office Box 427
Dry Creek, LOUISIANA 70637

Dear Representative Cain:

This issues in response to your request of September 17, 1980, requesting an opinion of this office. You question whether automobiles or other vehicles belonging to the Department of Corrections may be exempted from the requirements of R.S. 49:121A if said vehicles are used a portion of the time in connection with surveillance of inmates or in the pursuit of inmates who have escaped correctional facilities.

The provisions of Section 121A require that vehicles belonging to the state or its political subdivisions, departments, boards, commissions, or agencies display conspicuously decals and public license plates. The exemption thereto is provided for at Subsection E:

'Those automobiles used in crime prevention and detection and similar investigative work which, if identified as required by this section, could not be used effectively for such purposes, are exempt from the provisions of this part, and in addition, the automobile used by the governor, lieutenant governor and statewide elected officials are exempt from the provisions of this part.'

Your request presents essentially two issues: First, whether the exemption found in Subsection E requires that the automobile be used exclusively for the purposes of crime prevention and detection, and similar investigative work in order to be exempted from the provisions found at Subsection A. Second, whether surveillance of inmates and pursuit of escaped inmates is contemplated within the perimeters of crime prevention and detection, and similar investigative work.

The exemption provided at Section 121E does not require that an automobile of an agency be used exclusively for the purpose of crime prevention and detection, and similar investigative work in order that the agency might avail itself of the provision. It is our opinion that so long as the automobile is

used a portion of the time for purposes of crime prevention and detection, and similar investigative work, the exemption found at R.S. 42:121E is applicable.

The use of the Department of Corrections' vehicles in pursuit of escaped inmates from state correctional facilities is clearly cognizable as a crime prevention and detection use. We opine further that use of the vehicles by ranking Department of Corrections' officials and institutional supervisors or wardens is a similar investigative work.

It would appear clear that automobiles used by the Department of Corrections in pursuit of escapees and for purposes of surveillance of the inmates and guards at correctional institutions could not be used effectively if the automobiles were conspicuously labeled and licensed in accordance with Subsection A. An escaped convict is not likely to remain on a road shoulder if a marked unit is approaching. Similarly, the conduct of inmates and guards is likely to be affected if a marked vehicle is in their vicinity.

Trusting that this will serve in response to your inquiry, we remain

Very truly yours,

William J. Guste, Jr.
Attorney General

By: Charles L. Patin, Jr.
Assistant Attorney General
La. Atty. Gen. Op. No. 80-1232, 1980 WL 116534 (La.A.G.)
END OF DOCUMENT

Office of the Attorney General
State of LOUISIANA

Opinion No. 81-801
July 27, 1981

61, 64, 77-A.

Division of Administration is without discretion in providing private plates for State vehicles where request for same is made by agency charged with law enforcement responsibility.

Honorable Bob Odom
Commissioner
Department of Agriculture
Post Office Box 44302
Baton Rouge, LOUISIANA 70804

Dear Mr. Commissioner:

Reference is made to your request for an opinion of this office on the following:

1. Is the exemption found at R.S 49:121E applicable to vehicles assigned to inspectors employed by the Livestock Brand Commission?
2. Does the Commissioner of the Division of Administration have statutory authority to disapprove a request for the exemption found at R.S. 49:121E?

You provide us these facts:

'All of their job responsibilities relate to crime prevention and detection and similar investigative work with respect to the theft of livestock. They are deputized and work closely with other law enforcement agencies throughout the State in their efforts to identify cattle thieves. It is frequently necessary for them to work 'undercover' in these efforts. These inspectors are our first and only line of defense against cattle thieves.

Numerous beef cattle were slaughtered as a result of the summer drought; we anticipate a serious increase in cattle thefts as the market price of beef rises as a result of the scarcity caused by this slaughter.

On October 28, 1980, I requested the approval of the Commissioner of Administration of place private automobile plates on the vehicles driven by the brand inspectors to increase their effectiveness. However, my request was denied by Commissioner Henry on November 5, 1980.

Our experience since that date indicates that there continues to be a serious need to remove the public license plates from the inspectors' cars. . . .'

This office has recently been called upon to issue opinions on the exemption found at R.S. 49:121E. This opinion together with those previously issued were necessitated by refusals on the part of the Division of Administration to honor requests for private plates submitted by various agencies and departments.

It is our opinion, for reasons which follow hereinafter, that the Division of Administration has no authority in law to deny a request for private license plates for State vehicles as submitted by agencies and departments. An agency or department authorized by statute to engage in crime prevention, detection, and similar investigative work, not the Division of Administration, is given discretion to determine when privately marked vehicles are required to effectively discharge its work. R.S. 49:121 E. and G.

In Attorney General Opinion Number 81-800, we pointed out that the 1972 amendment made a significant change in the law. It exempts, ipso facto, State automobiles used in crime prevention, detection and similar investigative work from the provision requiring public license plates. Further, therein, we pointed out that the Division of Administration is without legal authority to approve or disapprove a request for private plates: ' . . . (Automobiles used in crime prevention, detection and similar investigative work do) not have to obtain preclearance or approval from the Division of Administration.'

The Division of Administration, sensitive to potential misuse of State vehicles, has in good faith taken it upon itself to exercise discretion in this area in furtherance of what it would consider to be the public interest. However, in so doing, the Division has interposed its judgment over that of the agencies and departments charged with the responsibility of law enforcement.

The apparent legislative intent is to permit the agency or department to determine when an identified vehicle would preclude its effective use in the area of crime prevention, detection and similar investigative work. Furthermore, it only stands to reason that the agency or department so charged is in the better position to make this determination.

Moreover, the law as presently written provides ample safeguards and restraints against this nature of abuse. These provisions are found in subsections F through H. These subsections provide:

F. No officer or employee of the state or any of its political subdivisions shall drive or operate any publicly owned land vehicle, aircraft or water craft not marked in accordance with the provisions of this Section, and no public officer or employee shall request, direct or permit any other public official or employee or any other person to drive or operate any such vehicle.

G. The head of any department or board of the state or any of its subdivisions who operates or who orders, requests or permits any employee under his control or supervision or any other person to operate any publicly owned land vehicle, water craft or aircraft not marked in accordance with the provisions of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense.

H. The Attorney General or any district attorney shall institute such action as is necessary to enforce or insure the enforcement of and compliance with the provisions of this Section, and any interested citizen may initiate any civil action permitted by law to force compliance or to prevent operation or use of a vehicle not marked as required by R.S. 49:121. As amended Acts

1962, No. 292, s 1.

Clearly, it was envisioned by the Legislature that the determination and sanctions for abuse would reside within the discretion of the Attorney General, the district attorneys, and interested citizens of the State. R.S. 49:121H.

Accordingly we conclude the duty of the Commissioner to provide private plates upon request is purely ministerial where the agency or department states that the vehicle will be used in crime prevention, detection and similar investigative efforts and the law authorizes the agency or department to participate in same.

In this light, and in view of the provisions of the statute, it is unnecessary that we make response to your first question.

Trusting this will serve in response to your inquiry, we remain

Very truly yours,

William J. Guste Jr.
Attorney General

By: Charles L. Patin, Jr.
Assistant Attorney General
La. Atty. Gen. Op. No. 81-801, 1981 WL 154786 (La.A.G.)
END OF DOCUMENT

Office of the Attorney General
State of LOUISIANA

Opinion No. 84-124
June 11, 1984

90-A-1 Public Funds & Public Contracts
70 Motor vehicles--control and regulation
LSA-R.S. 49:121

Identification statute applies to vehicles used by employees of elected public officials, but not to officials themselves. All vehicles purchased with public money are covered by statute unless specifically exempted.

Re: Identification of Vehicles

Mr. Robert E. Harroun, III
General Counsel to the Legislative Auditor
P. O. Box 44397
Baton Rouge, LOUISIANA 70804-4397

Dear Mr. Harroun:

You have requested an opinion concerning the applicability of LSA-R.S. 49:121 to local elected officials. Specifically, you inquired whether the statute applied to vehicles belonging to sheriffs, clerks of court, assessors and registrars of voters. You noted a possible conflict arising from opinions of this office which stated that these officials were not technically state agencies or political subdivisions of the state.

R.S. 49:121 provides that any vehicle "belonging to the state or to any of its political subdivisions, or to any department, board, commission, or agency of the state or to any department, board, commission or agency of any of its political subdivisions", shall be identified in the manner prescribed by the statute.

In the opinion of this office, LSA-R.S. 49:121 is applicable to all vehicles which are purchased for use by the offices of the officials you mentioned, except for those vehicles which are purchased for the exclusive use of an elected public official himself. Section (E) of the statute exempts those vehicles purchased for the exclusive use of an elected public official. Cars used by employees of the official, however, should be identified in compliance with the statute. In Attorney General Opinion 74-1874, we said that "the evident purpose of [R.S. 49:121] is to identify vehicles paid for by public monies in an endeavor to thereby abate or lessen the mischief or the temptation of public servants to use public vehicles for private use." There does not seem to be a conflict with other opinions of this office which consider these officials not to be political subdivisions of the state, because R.S. 49:121 applies not only to political subdivisions, but also to vehicles belonging to

departments, boards, commissions or agencies of political subdivisions. It is therefore our opinion that the statute is applicable to all vehicles which are purchased with public money and which do not fall within one of the specific exemptions of the statute.

Section (E) of the statute also exempts vehicles used in crime prevention and detectin which, if identified, could not be used effectively for such purposes. Therefore, it is possible that some of the vehicles used by sheriffs are exempt from the statute. But where the crime prevention function would not be negated by identification of the vehicle, the vehicle should be marked according to the statute. We have previously opined that the vehicles exempt for this reason need not be used exclusively for purposes which would be negated by identification, but are exempt so long as they are used a portion of the time for crime prevention and detection.

Please contact our office if you need any additional information.

Sincerely,

William J. Guste, Jr.
Attorney General

By: Glenn R. Ducote
Assistant Attorney General
La. Atty. Gen. Op. No. 84-124
END OF DOCUMENT

ATTACHMENT

Telephone:
504-342-7013

OPINION NUMBER 89-346

Mr. Fred C. Dent, Commissioner
of Financial Institutions
Office of Financial Institutions
P. O. Box 94095
Baton Rouge, LA 70804-9095

Dear Mr. Dent:

You requested the opinion of this office concerning whether all vehicles owned by the Office of Financial Institutions must bear public license plates and conspicuous decals setting forth the name of the agency to which the vehicle belongs.

You advised that your office presently has 27 pool vehicles, 24 of which are used by your examination staffs throughout the state for examinations, investigations and visitations of financial institutions. Three vehicles have public plates and decals, the remaining 24 do not.

You further advised that in almost every instance when an examination, investigation or visitation of a financial institution is necessary, the prospect and possibility of discovering criminal activity is present. You believe that if the vehicles used by the examiners are unmarked and are not publicly licensed, it would become increasingly difficult for your examiners to effectively perform investigations of financial institutions if they must "announce" their presence by performing their tasks in vehicles bearing public markings.

You further advised that you closed eight financial institutions in 1988 and have thus far in 1989, closed six financial institutions. You have expressed concern that the obvious presence by marked cars being parked in front of a financial institution, of bank examiners could cause a run on the bank. A "run" on an institution whether it is solvent or insolvent would prove disastrous and would further compound the state's economic problems.

R.S. 49:121(A) requires vehicles belonging to the state or its political subdivisions, departments, boards, commissions, or agencies display conspicuous decals and public license plates. The exception thereto is set forth in Paragraph (E) as follows in pertinent part:

"Those automobiles used in crime prevention and detection and similar investigative work which, if identified as required by this section, could not be used effectively for such purposes, are exempt from the provisions of this part . . ."

Mr. Fred C. Dent
OPINION NUMBER 89-346
Page -2-

As was stated in Opinion No. 80-1232 of this office "[t]he exemption provided at Section 121E does not require that an automobile of an agency be used exclusively for the purposes of crime prevention and detection, and similar investigative work in order that the agency might avail itself of the provision. It is our opinion that so long as the automobile is used a portion of the time for purposes of crime prevention and detection, and similar investigative work, the exemption found at R.S. 42:121E is applicable."

It would appear clear that the vehicles used by the employees of the Office of Financial Institutions to visit a financial institution in order to examine the bank's records to determine, at least in part, if any acts of criminal fraud, defalcation and other criminal activity related to financial institutions has occurred, is clearly cognizable as crime prevention and detection and similar investigative work which, if the vehicles were identified in accordance with R.S. 49:121(A) they could not be used effectively for such purposes. Thus such vehicles do not have to be marked as provided in R.S. 49:121(A).

Sincerely,

WILLIAM J. GUSTE, JR.
Attorney General

BY:
MARTHA S. HESS
Assistant Attorney General

MSH:jav

Office of the Attorney General
State of LOUISIANA

Opinion No. 94-423
October 11, 1994

70-MOTOR VEHICLE--Control & Regulation

LSA-R.S. 49:121(A)(1)

LSA-R.S. 49:121(E)

Atty.Gen.Op. Nos. 89-346, 80-1232

If a state vehicle is used in crime prevention and/or detection than it is exempt from placing the required state license and decals.

Roger W. Harris, CFE
General Counsel
The Office of Legislative Auditor
1600 North Third Street
P.O. Box 94397
Baton Rouge, LA 94397

Dear Mr. Harris:

This office is in receipt of your opinion request, which has been assigned to me for research and reply. In your request you state that the Office of the Legislative Auditor is considering the acquisition of a second car to be used to carry out the duties of your office. One of the uses contemplated for this vehicle is for investigative audit purposes and similar investigative work which usually culminate in referrals for possible criminal charges.

You specifically ask whether a vehicle used in these investigative audits must bear public license plates and conspicuous decals pursuant to LSA-R.S. 49:121(A)(1) which, in part, states:

"Every boat, watercraft, aircraft, automobile, truck, or other vehicle belonging to the state or to any of its political subdivisions, or to any department, board, commission, or agency of any of its political subdivisions shall, if required by law to bear a LOUISIANA license plate, bear a public license plate, and each such vehicle also shall have inscribed, painted, decaled, or stenciled conspicuously thereon ... the name of the board, commission, department, agency, or subdivision of the state to which the boat, watercraft, aircraft, automobile, truck, or other vehicle belongs ..."

This general rule does allow for an exception, LSA-R.S. 49:121(E) which, in applicable part, states:

"Those vehicles used in crime prevention and detection and similar investigative work, which if identified as required by this Section could not be used effectively for such purposes, are exempt from the provisions of this Part ..."

This office addressed a similar situation in Opinion Number 89-346. The facts

presented in that opinion concerned the use of vehicles by the Office of Financial Institutions in investigations of financial institutions without the required accoutrement under R.S. 49:121. Similar concerns were expressed regarding possible decreased effectiveness of investigations if marked cars were required.

That opinion cited language from an earlier answered request, Opinion Number 80-1232, which we reaffirm:

"[t]he exemption provided at Section 121E does not require that an automobile of an agency be used exclusively for the purposes of crime prevention and detection, and similar investigative work in order that the agency might avail itself of the provision. It is our opinion that so long as the automobile is used a portion of the time for purposes of crime prevention and detection, and similar investigation work, the exemption found at R.S. 42:121E is applicable." Op. Atty. Gen. No. 89-346, p. 2.

The investigative audits performed by your office appear to be implemented only when a strong suspicion of failure(s) to comply with laws and regulations exists. The use of a vehicle in these investigations identifying the Legislative Auditor's Office would greatly cripple the successful collection of evidence from those under investigation and, subsequently, hindering any criminal charges that might result. Therefore, it is the continuing opinion of this office that such vehicles do not have to be marked as provided in R.S. 49:121(A).

I trust this sufficiently answers your request. Should you have any further questions, please do not hesitate to contact our office.

Very truly yours,

Richard P. Ieyoub
Attorney General

By: Roland Dartez
Assistant Attorney General
La. Atty. Gen. Op. No. 94-423
END OF DOCUMENT



ATTACHMENT

BOBBY JINDAL
GOVERNOR

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Statewide Reporting and Accounting Policy

February 6, 2008

MEMORANDUM

TO: Stephen Beck
Accountant Manager, Office of Elderly Affairs

FROM: Afranie Adomako, CPA *AA*
Director

SUBJECT: PPM 73 – Cents-Per-Mile Rule

After reviewing the Office of Elderly Affairs' recently submitted PPM 73 report and plan for the calendar year 2007, it has come to my attention that your office is not using the correct mileage rate for the employee that you reported as having personal use of a state vehicle. For calendar year 2007, the standard mileage rate per IRS Publication 15-B is 48.5 cents a mile. This occurrence might lead the employee's amount of taxes withheld and taxable income for the year to be misstated if the incorrect rate was used and reported on the employees' W-2.

It is the opinion of this office that an amended W-2 needs to be filed with the Internal Revenue Service for this employee, unless adequate justification can be provided stating otherwise. Please have your office contact the Office of State Uniform Payroll to get an amended W-2 processed by the end of February.

Contact Mr. Sean Langlois at (225) 342-5509 or me at (225) 342-0708 if you need additional information.

AA/si



ATTACHMENT

BOBBY JINDAL
GOVERNOR

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Statewide Reporting and Accounting Policy

February 8, 2008

MEMORANDUM

TO: Jack Keahey
President, Tensas Basin Levee District

FROM: Afranie Adomako, CPA
Director

SUBJECT: PPM 73 – Commuting Rule

After reviewing the Tensas Basin Levee District's recently submitted PPM 73 report and plan for the calendar year 2007, it has come to my attention that your office is not treating employee commutes between their residence and work as taxable income. Per Internal Revenue Regulation 1.162-2(e), an employee's commute is considered taxable personal use of an employer-provided vehicle, and thus should be included in the employee's wages. Failure to do that might lead the employee's amount of taxes withheld and taxable income for the previous year to be misstated if it is not included as income, and reported on the employees' W-2.

It is the opinion of this office that an amended W-2 needs to be filed with the Internal Revenue Service for each of the affected employees, unless adequate justification can be provided stating otherwise. Please contact your Human Resources department to get amended W-2's processed by the end of February.

Contact Mr. Sean Langlois at (225) 342-5509 or me at (225) 342-0708 if you need additional information.

AA/sl



BOBBY JINDAL
GOVERNOR

ATTACHMENT

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Statewide Reporting and Accounting Policy

February 20, 2008

MEMORANDUM

TO: Windell Curole
General Manager, South Lafourche Levee District

FROM: Afranie Adomako, CPA
Director

SUBJECT: PPM 73 – Commuting Rule

After reviewing the South Lafourche Levee District's recently submitted PPM 73 report and plan for the calendar year 2007, it has come to my attention that your office is not treating employee commutes between their residence and work as taxable income. Per Internal Revenue Service Regulation 1.162-2(e), an employee's commute is considered taxable personal use of an employer-provided vehicle, and thus should be included in the employee's wages. Failure to do that might lead the employee's amount of taxes withheld and taxable income for the previous year to be misstated if it is not included as income, and reported on the employees' W-2.

It is the opinion of this office that an amended W-2 needs to be filed with the Internal Revenue Service for each of the affected employees, unless adequate justification can be provided stating otherwise. Please contact your Human Resources department to get amended W-2's processed by the end of February.

Contact Mr. Sean Langlois at (225) 342-5509 or me at (225) 342-0708 if you need additional information.

AA/si



ATTACHMENT

BOBBY JINDAL
GOVERNOR

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Statewide Reporting and Accounting Policy

March 10, 2008

MEMORANDUM

TO: Von Meador
Deputy Undersecretary, Louisiana Public Service Commission

FROM: Afranie Adomako, CPA 
Director

SUBJECT: PPM 73 – Commuting Rule

After reviewing the Louisiana Public Service Commission's recently submitted PPM 73 report and plan for the calendar year 2007, it has come to my attention that your office is not treating employee commutes between their residence and work as taxable income. Per Internal Revenue Regulation 1.162-2(e), an employee's commute is considered taxable personal use of an employer-provided vehicle, and thus should be included in the employee's wages. Failure to do that might lead the employee's amount of taxes withheld and taxable income for the previous year to be misstated if it is not included as income, and reported on the employees' W-2.

It is the opinion of this office that amended W-2's needs to be filed with the Internal Revenue Service for each of the affected employees, unless adequate justification can be provided stating otherwise. Please contact the Office of State Uniform Payroll to get amended W-2's processed by the end of March.

Contact Mr. Sean Langlois at (225) 342-5509 or me at (225) 342-0708 if you need additional information.

AA/sl

**Department of Wildlife and Fisheries'
Response**



BOBBY JINDAL
GOVERNOR

State of Louisiana

ROBERT J. BARHAM
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES
OFFICE OF SECRETARY

April 9, 2008

Mike Davis, CFE
Office of State Inspector General
P.O. Box 94095
Baton Rouge, LA 70804-9095

RE: Response to Findings

Dear Mr. Davis,

Per your request, below are our responses to the conditions you observed and which we discussed with you in our 3-28-2008 and 4-3-2008 audit exit conferences:

1. **Condition:** LSA-R.S. 49:121 requires state-owned vehicles bear public license plates and have the name of the owning agency inscribed, painted, decaled or stenciled conspicuously on the vehicle, unless the vehicle is used in crime prevention, detection and similar investigative work, which if identified as required by this statute could not be used effectively. Furthermore, the statute states, "The head of any department or board of the state or any of its subdivisions who operates or who orders, requests or permits any employee under his control or supervision or any other person to operate any publicly owned land vehicle, water craft or air craft not marked in accordance with the provisions, of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense."

Our review determined two (2) individuals included in our test that were assigned home storage of unmarked vehicles with private license plates reported they required an unmarked vehicle to perform their duties less than six (6) times during the year ending June 30, 2007.

DWF Response: We concur with this condition and would like to add some clarifying information. First, R.S. 49:121 (E) specifically exempts "those vehicles used in crime prevention and detection" from the aforementioned marking requirements. All of the vehicles in question are used for crime prevention and detection purposes.

Second, our understanding of the question asked of these two officers was that it related to undercover operations. Undercover operations are those in which the officer presents him or herself as someone other than a law enforcement officer. The officers in question perform duties other than undercover operations that require an unmarked vehicle. These duties include monitoring agent activity in the field, following up on public complaints

concerning agents, following up on public complaints of illegal activity, daily crime detection, etc. Using marked vehicles for these purposes would compromise the ability to effectively perform these duties. Additionally all of our enforcement agents are bound by law to intervene when a crime is observed.

2. **Condition:** Instructions printed on the face of DOA Form MV-3 require drivers to record "Locations where trips began; all points visited (unless did not leave state property grounds), where trip ended; purpose of trip (meeting, site visit, etc.)." Our review of MV-3s submitted during the 2006-07 fiscal year determined drivers did not always report all points visited or, the purposes of the trips.

DWF Response: We concur with this condition.

3. **Condition:** Title 34, Part XI outlines specific conditions that must be satisfied for home storage assignment of state-owned vehicles. Our review of DOA Form MV-2s submitted and approved for the 2006-07 fiscal year determined the employee's corresponding, SF-3 (Position Description) did not always disclose specific responsibilities or duties that indicated or suggested home storage assignment of a state-owned vehicle was required for effective/efficient job performance.

DWF Response: We concur with this condition and would like to add some clarifying information. Each SF-3 includes a statement that the employee, "May perform examples of work of any lower ranking wildlife enforcement agent." In our discussions with you on this matter, you indicated that the SF-3's for lower ranking agents did list, in your opinion, sufficient duties that indicated the need for home storage. Therefore, we believed that the reference to these duties contained in higher ranking officers' SF-3's was sufficient. Also, the Department of Civil Service requested that we make this reference on the SF-3 in order to streamline the job descriptions. However we will revise our SF-3's for these positions to address your concerns.

We value the experience of this audit and view it as an opportunity to improve our business processes. Thank you for your assistance, and if you should have any questions or need additional information please contact Jeff LaCour, Internal Auditor, at 765-0661.

Sincerely,



Robert Barham
Secretary

- c: Janice Lansing, Undersecretary
Winton Vidrine, Colonel
Keith LaCaze, Lieutenant Colonel
Jeff Mayne, Lieutenant Colonel
Gail Allatto, Property Control Director
Jeff LaCour, Internal Auditor

Thirty-six copies of this public document were published in this first printing at a cost of \$ 184.80. The total cost of all printings of this document, including reprints is \$ 184.80. This document was published by the Office of State Inspector General, State of Louisiana, Post Office Box 94095, 150 Third Street, Third Floor, Baton Rouge, LA 70804-9095 to report its findings under authority of LSA-R.S. 39:7-8. This material was printed in accordance with the standards for printing by state agencies established pursuant to LSA - R.S. 43:31.

A copy of this report has been made available for public inspection at the Office of State Inspector General and is posted on the Office of State Inspector General's website at www.doa.louisiana.gov/oig/inspector.htm. Reference should be made to Case No. [2-07-0002](#). If you need any assistance relative to this report, please contact Bruce J. Janet, CPA, State Audit Director at (225) 342-4262.

REPORT FRAUD, WASTE, AND ABUSE

To report alleged fraud, waste, abuse, or mismanagement relative to state programs or operations, use one of the following methods:

- Complete complaint form on web site at www.doa.Louisiana.gov/oig/inspector.htm
- Write to Office of State Inspector General, P. O. Box 94095, Baton Rouge, LA 70804-9095
- Call the Office of State Inspector General at (225) 342-4262