

**CITY OF NEW ORLEANS
OFFICE OF INSPECTOR GENERAL**

**AUDIT AND REVIEW DIVISION
MANAGEMENT IMPLICATION REPORT
MIR-09-A&R-001**



**Interim Recommendations for the Policy Memorandum No. 5 (R)
Revised and Issued on April 18, 2009
in Response to the OIG's
Interim Report on the Management of the Administrative Vehicle Fleet**

525 St. Charles Avenue, New Orleans, LA 70130-3409

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Executive Summary

This Management Implication Report (MIR 09 A&R-01) is issued in connection with our evaluation of the City of New Orleans (City) passenger vehicle fleet. The purpose of this MIR is to offer timely findings, recommendations and observations which effect many departments within the legislative and administrative branches of government.

In December, 2008, the Office of the Inspector General (OIG) issued the *Interim Report on the Management of the Administrative Vehicle Fleet*.(see report at nolaoig.org) That report concerned an evaluation of a portion of the City's vehicle fleet that falls under the management of the Mayor and the Chief Administrative Officer (CAO). The OIG's interim report was issued prior to the completion of an evaluation of all City departments to provide City officials an early opportunity to consider the OIG's findings, recommendations and observations.

In correspondence from the CAO to the OIG, dated January 30, 2009(Appendix B), the CAO states that "Immediately after receiving the report, ... the CAO established a vehicle operations and policy development workgroup to review the report and further formulate strategies for both immediate and future improvements to all aspects of the City's vehicle and equipment fleet management and operations based on the recommendations in the interim report."

As a result of this work group, the CAO issued the revised Policy Memorandum No. 5 (R) (CAO Policy #5R on April 28, 2009. The newly issued CAO #5R replaces the previous Policy Memorandum No. 5 (R) (old Policy No. 5), which was issued on March 18, 2002, and eliminates Policy Memorandum No. 40 (R) (Policy 40R) dated April 21, 1994.

This MIR summarizes the revisions made to CAO Policy #5R. There are 17 sections in the revised policy:

1. Applicability
2. Background
3. Vehicle Identification
4. Security
5. Departmental Responsibilities
6. Take-Home Vehicles
7. Departmental Vehicle Motor Pools
8. Auto Allowances
9. Mileage Reimbursement for Business-Related Travel
10. Employee/Operator Responsibility
11. Equipment Maintenance Divisions Responsibilities
12. Accident Procedures
13. Vehicle Operations During Emergencies
14. Receipt and Acknowledgment Requirements
15. Substance Abuse and Testing
16. Exceptions
17. Inquiries

An analysis of the revisions to CAO Policy #5R yielded eight major findings and recommendations which are offered in this MIR to provide additional timely comments to improve the operations and increase effectiveness of City services and the efficiency of their delivery.

- **Major Finding #1:** The City may owe additional Federal income taxes, interest and penalties for failure to report income of employees with a take-home vehicle.
- **Major Finding #2:** The City's employees may owe additional Federal income taxes, interest and penalties for failure to report income related to take-home vehicles.
- **Major Finding #3:** Lack of compliance with Internal Revenue Service requirements for documentation of personal use of vehicles at the departmental level.
- **Major Finding #4:** Lack of compliance with Internal Revenue Service requirements for documentation of personal use of vehicles at the employee level.
- **Major Finding #5:** Lack of compliance with Internal Revenue Service requirement to value and include separately the fringe benefit received from fuel provided to City employees for inclusion in the employee's income.
- **Major Finding #6:** The City's take-home use charge per take home vehicle is not adequate to cover fringe benefits for all employees with a take-home vehicle.
- **Major Finding #7:** The City's new take-home policy may not be in compliance with Louisiana State Statute.
- **Major Finding #8:** The City's vehicle policy fails to establish the minimum personal insurance requirements for employees provided with a take-home vehicle to cover damage related to an employee acting beyond the scope of their authority.

The following three observations, which are derived from good practices noted by the OIG at other City departments, boards, agencies or commissions, are offered in this MIR and are intended to provide additional timely comments to improve the operations and increase the effectiveness of City services and the efficiency of their delivery.

- **Observation #1:** Security of vehicles
- **Observation #2:** Proper licensing of employees for the vehicle they operate
- **Observation #3:** Investigating suspected vehicle misuse and/or abuse

Background

In the *Interim Report on the Management of the Administrative Vehicle Fleet*, issued in December, 2008, the OIG reported the City's noncompliance with Section 2-898 of the Code of Ordinances which states that no more than 50 vehicles should be assigned for take-home use and the Fire Department is limited to no more than 10 take home vehicles. At the time the OIG report was issued, the CAO reported that 273 City owned vehicles have been assigned to City officials and employees for take-home use which is in excess of the limits established by the Ordinance.

In January, 2009, the CAO created a workgroup whose purpose was to review, reformulate and combine two existing policies into one comprehensive vehicle policy whose stated purpose is to support reduced costs, better management of City resources, reduce claims and liabilities and designate areas of responsibility and accountability. The members of the work group were comprised of the following members of City government:

- CAO
- Deputy CAO
- Director of Communications
- Deputy Director of Communications
- Interim Director of Intergovernmental Relations
- Assistant CAO in charge of Operations
- Mayor's Director of Policy
- Assistant CAO in charge of Budget
- Director of Public Works
- Fiscal Director, Mayor's Office
- Risk Manager, Law Department
- Intergovernmental Relations
- Mayoral Fellow, Policy

The old Policy No. 5 and Policy 40R were the two main policies that governed vehicle operations. Neither of these policies addressed the issue of take-home vehicles. The old Policy No. 5 included requirements for vehicle identification, vehicle security, information on the responsibilities of appointing authorities and departmental vehicle and equipment coordinators. Policy 40R identified the responsibilities of the departments regarding monitoring and controlling fuel use, the responsibilities of the employees that dispense fuel, the responsibilities of the CAO with regard to fuel system administration, the fuel facilities to be used by all City vehicles under normal operating conditions, the procedures for emergency fuel services, and the procedures for authorization for exemption from the policy. The CAO, with the assistance of the work group, combined the old Policy No. 5 and the Policy 40R into one comprehensive vehicle policy which included a new policy related to take-home vehicles. This new comprehensive vehicle policy is referred to as CAO #5R and was issued on April 28, 2009.

In February, 2009, as a result of the OIG's finding of noncompliance with the City Ordinance, the City Council unanimously passed Motion No. M-09-49 which required that the Mayor or his designee present a plan for compliance with the number of take-home vehicles in the Ordinance by March 13, 2009. The Motion also required the Mayor to establish an official policy regarding the use of take-home vehicles.

In February, 2009, the Mayor's office announced plans to reduce the City's excessive number of take-home vehicles by 102. The CAO has commented that the 25 year old limit in the Ordinance is "outdated and needs to be raised" and she asked City Council members to consider raising the limit to 110 vehicles.

The Equipment Maintenance Division (EMD) reported that by May 31, 2009, their department had received 75 take-home vehicle deletion forms and these vehicles had been turned in to each department to be utilized as pool vehicles. The following departments, which are part of the Administrative Fleet, were impacted by the reduction in take-home vehicles:

- 23 vehicles in Safety & Permits
- 22 vehicles in the Mayor's Office
- 7 vehicles in ORDA
- 5 vehicles in Property Management
- 5 vehicles in the Target Area Team
- 3 vehicles in the CAO's office
- 2 vehicles in the Finance Department
- 2 vehicles in the Health Department
- 1 vehicle in Mosquito Control
- 1 vehicle in Homeland Security
- 1 vehicle in Parks & Parkways
- 1 vehicle in Public Works
- 1 vehicle in Council Utilities
- 1 vehicle in IGR/Federal, State Programs

In June, 2009, certain City Council members expressed concern at a meeting for two specific departments, Safety and Permits and Public Works, who had been impacted by the reduction in take-home vehicles. City Council asked the administration to consider restoring the take-home vehicles of these two departments under the premise that these two departments should be treated the same as the police, firefighters and emergency medical personnel.

This MIR summarizes the revisions made to the old Policy No. 5 and the Policy 40R which have been combined into the new CAO Policy #5R and which addresses all City vehicles and equipment including the acquisition, disposition, operations, maintenance, refueling and the coordination of these activities. In addition, this MIR offers timely findings, recommendations and observations which effect many departments within the legislative and administrative branches of government.

Section 1: Applicability

The section was revised, expanded and renamed from "Purpose" to "Applicability". It states that "The purpose, spirit and intent of this policy is to state the responsibilities and accountability of each Department, Department Employees and Operators, and the Equipment Maintenance Division (EMD) regarding the appropriate use of City vehicles and equipment, their operations, maintenance, refueling, and the coordination of these activities. This entire policy applies to all licensed vehicles and other mobile equipment considered property of the City of New Orleans."

No findings, recommendations or observations.

Section 2: Background

This is a new section added to CAO Policy #5R which attempts to clearly delineate the lines of responsibility. The City's vehicle fleet is assigned to and operated by the individual City Departments. EMD provides maintenance and fuel services. The stated goal of revising CAO Policy #5R is to optimize fleet operations and services by a coordinated effort between the users of the vehicles, which are the departments and their employees, and the fleet service provider, EMD.

No findings, recommendations or observations.

Section 3: Vehicle Identification

The vehicle identification requirements did not change with the policy revision; however, the exemption was specifically revised to exclude vehicles operated by law enforcement personnel and excluded by State law in addition to vehicles exclusively used by elected officials.

No findings, recommendations or observations.

Section 4: Security

This section was revised to provide more security direction to pooled vehicles. The responsibility is on the appointing agency or the department to develop and implement a procedure for monitoring the storage of pooled vehicles as well as those assigned for take-home use.

Observation #1: The Orleans Parish Criminal Sheriff Office (OPCSO) has a procedure in their take-home policy that may be considered a good practice and applicable to other City departments, boards, agencies and commissions. The OPCSO's Policy 301.19, "Take-Home Vehicle Policies and Procedures," states "During vacation, holiday, and other periods of absence of seven days or more when the employee will be away from his/her residence, the take-home vehicle will be temporarily parked at the Fleet Maintenance Garage lot and securely locked. The keys shall be turned in to the Fleet Maintenance Garage in case the vehicle is needed in emergency situations."

Observation #1: (continued)

The employee shall resume possession of the vehicle upon return to duty of his/her residence.”
The CAO should consider including similar type language in the CAO’s vehicle policy.

New CAO #5R	Old Policy No. 5
Report take-home vehicle use to CAO on form in Circular Memorandum 03-22, so that each employee with take-home use authorization is charged for use of the vehicle, or as a taxable fringe benefit in accordance with Circular Memorandum 36-86 and the Internal Revenue Service’s guidelines and requirements.	Employees were required to record personal use of a City vehicle and the departments were required to submit these records quarterly to the CAO for the purpose of calculating the taxable fringe benefit to employees with a take-home vehicle. Any fringe benefit was to be added to the regular pay of the employee.
Appoint a Departmental Vehicle Coordinator and Back-up Coordinator.	No change.
Establish minimum vehicle and equipment requirements.	A minimum vehicle and equipment requirement was not addressed.
Monitor maintenance and service and coordinate with EMD.	No change.
Initiate and/or conduct investigations for suspected vehicle or equipment misuse and/or abuse and take appropriate action.	No change.
Establish replacement requirements for vehicles and equipment.	No change.
Political activity is prohibited.	No change.
Only City employees holding appropriate licenses are allowed to operate City vehicles and equipment. No non-city employee, including family members, is permitted to operate City vehicles and equipment. Parking lot attendants are the exception.	No change.
Each department is responsible for security over fuel cards, employee PIN numbers and all fuel transactions charged to those cards.	Employee and department responsibilities related to fuel cards, employee PIN numbers and fuel consumption were not addressed in this policy. These areas were addressed in the Policy 40R, which was issued on April 21, 1994. All of the responsibilities created in the Policy 40R have been included in the newly revised CAO Policy #5R.

Each department will require that every employee with a take-home vehicle shall provide a copy of their current personal automobile insurance policy to the appointing authority. Personal usage is not covered by the City's self-insurance program.

This was not a requirement.

Section 5: Departmental Responsibilities

This section of the revised policy has been expanded to provide guidance and parameters to all appointing authorities, or department heads, for all aspects of fleet operations and management. The stated purpose of the revision is to place the responsibility and accountability on each department for monitoring and controlling employees who are operating vehicles and equipment. It addresses the following responsibilities:

New CAO #5R	Old Policy No. 5
CAO Policy Memorandum and related Circular Memorandum should be issued to each employee with vehicle use privileges and their receipt recorded.	Employees' receipt was not required to be recorded.
Establish and maintain vehicle data base in a specified format. This data base is to serve as basis for the quarterly report to CAO.	CAO only required semi-annual reporting and no specific format was required.
Departments shall notify EMD of all new vehicle assignments or any changes in vehicle assignments or take-home status.	No change.
Conduct quarterly vehicle and equipment inventory and take-home assignment inventory and sent to CAO.	Only a semi-annual inventory and semi-annual reporting were required.
Assign take-home authorization on the basis of the employee's job assignment and responsibilities in instances where it is beneficial to the City, and according to the take-home assignment criteria.	Take-home vehicle assignments were not addressed in this policy.
Ensure take-home vehicle reimbursement is deducted from all employees assigned a take-home vehicle.	A take-home vehicle use charge was not addressed. Subsequent to the issuance of the old Policy No. 5, the CAO issued Circular Memorandum No. 03-22, on December 23, 2003, which established a take-home use charge of \$600 per year. The CAO later increased the take-home use charge to \$1,200 in Circular Memorandum No. 08-06, issued on August 7, 2008.

Major Finding #1: The Internal Revenue Service requires employers to keep accurate and comprehensive travel records detailing how much mileage is used for work and how much is used for personal needs. None of the City's departments are in compliance with the Internal Revenue Service record keeping requirements.

The old Policy No. 5 and the newly revised CAO Policy #5R provide that the user employees shall keep adequate records to substantiate both business and personal miles. Under Circular Memorandum 36-86, personal use of a city vehicle is a taxable fringe benefit. The OIG found that subsequent to Hurricane Katrina, no departments were complying with the CAO's vehicle policy or circular memorandum requiring the employee to keep records of business and personal use.

Recommendation: Record keeping or meeting substantiation requirements, is an important requirement for take-home vehicle users. Per Internal Revenue Service Publication 15-B, if the employee doesn't do his own substantiation or meet the requirements, the employee is presumed to have driven the vehicle for his own use and that value will be considered income for tax purposes. If the personal use is not documented and quantified, all use is considered personal. Per Internal Revenue Service Publication 15-B, personal use is taxable and should be included on the employee's W-2. The OIG recommends that the CAO seek whatever documentation is available, if any, from each employee assigned a take-home vehicle and include the value attributable to the employee's personal use of the vehicle in the employees's gross income.

Major Finding #2: Based on our analysis of the City take-home vehicle assignments, there is no justification for a substantial number of the take-home assignments. This is supported by comments made to the OIG on multiple occasions and by numerous departments that "City employees have been provided a take-home vehicle as a form of compensation or to supplement low pay." It appears these vehicles are being driven home when the only apparent reason is to provide a fringe benefit to employees.

The propriety of this finding is addressed in the Louisiana Constitution (1974) Article VII Section 14, which contains the constitutional standard for the lawful use of public funds and property. La. Const. Art VII, Sec. 14(A) generally prohibits the state and its political subdivisions from loaning, pledging or donating public funds, assets or property to persons, associations or corporations, public or private.¹

Historically, the Attorney General has followed the Louisiana Supreme Court's interpretation of La. Const. Art. VII, Sec. 14, as set forth in *City of Port Allen V. Louisiana Mun. Risk*, 439 So.2d 399 (La. 1983). However, the Louisiana Supreme Court has recently overruled this case and announced a new standard for determining whether Art. VII Sec. 14 is violated. In *Board of Directors of the Industrial Development Board of the City of Gonzales*, 938 So.2d 11, 23, 2005-2298 (La.9/6/06) (the "Cabela's" case) the court found that "(Art.VII) Sec.14 (A) is violated when public funds or property are gratuitously alienated."

¹ Office of the Attorney General of Louisiana. Opinion No. 07-0180.

Thus if allowing the City employee to travel to and from work in the City vehicle is considered a gratuitous alienation of public property, the use of the City vehicle would be an unconstitutional donation pursuant to Art. VII, Sec. 14.²

In an opinion the Attorney General addressed the three issues from the Cabela's case when it comes to determining whether expenditure is gratuitous.

*"First, it is evident that there must be a public purpose when expending funds. Second, the transaction must be looked at as a whole, and cannot appear to be gratuitous on its face. Third, public entities must have an expectation of receiving something of value when expending public funds. Therefore, it is clear to our office that in order for an expenditure or transfer of public funds or property to comply with Art. VII, Sec. 14(A), the public entity must receive more than a nominal return or some minimal value in order for an expenditure to be non-gratuitous. If a public entity can show that it reasonably expects to receive at least equivalent value for the funds it expends or property it transfers, that would seem to show a non-gratuitous intent."*³

Recommendation: The CAO should seek an opinion of the Office of the Attorney General of Louisiana regarding the legality of all take-home vehicle assignments for every City employee assigned a vehicle purchased or leased by the City. If the Attorney General opines that the use of the take-home vehicle violates Art. VII, Section 14(A) of the Louisiana Constitution, the take-home vehicle assignment should be eliminated.

Major Finding #3: While the City deducts a take-home use charge from the payroll of all City employees with a take-home vehicle; the OIG analysis would indicate that for a substantial number of employees assigned a take-home vehicle as compensation, the charge deducted from the employee's payroll is not adequate to cover the appropriate value of the take-home fringe benefit. The taxable value of the fringe benefit for those employees would be any benefit received *in excess of* the current take-home use charge. Under existing Internal Revenue Service guidelines, the total benefit of these employer provided vehicles *in excess of* the take-home use charge would be taxable. This issue is not currently being addressed or reported by the City of New Orleans and consequently the City may have some exposure for under reporting the regular pay and the related payroll taxes for all employees assigned a take-home vehicle.

Special exceptions on taxable benefits are identified for clearly marked police and fire vehicles and certain unmarked law enforcement vehicles. However, the OIG determined that many commissioned personnel in some departments, such as the New Orleans Police Department, particularly administrative personnel, were assigned unmarked vehicles as take-home vehicles that may require inclusion predicated upon the Internal Revenue Service rules.

² Office of the Attorney General of Louisiana. Opinion No. 90-519.

³ Office of the Attorney General of Louisiana. Opinion No. 07-0134. See management's disagreement with this finding in Appendix E, page 4.

Recommendation: Each department has to look at each individual take-home assignment and make the determination as to whether the take-home use charge is adequate to cover the fringe benefit to the employee. The City should quantify the take-home use cost and personal use benefit for each individual assigned a take-home vehicle.

For those employees where the value of the fringe benefit exceeds the take-home vehicle use charge, the fringe benefit should be added to the regular wages of the employee. The applicable payroll taxes must be computed including Federal income, social security, and Medicare taxes; additionally, the City should file amended W-2's for all employees affected.

Major Finding #4: Section 5 (O) of CAO #5R requires that "Every employee with a take-home vehicle shall provide a copy of their current personal automobile insurance policy to the appointing authority. It shall be the responsibility of each department to ensure that insurance policies or proof of insurance coverage are submitted as they are renewed." Section 6 of CAO #5R, Take-Home Vehicles, fails to address or establish the minimum requirements of comprehensive and collision insurance which the City requires to permit an employee to drive a take-home vehicle.

Recommendation: As a general rule the liability, uninsured motorist and medical portions of a personal auto insurance policy will follow the driver and provide coverage for the driver when operating another vehicle such as a take-home vehicle provided by the City. If an employee with a take-home vehicle is involved in an accident when acting beyond the scope of their authority then the personal insurance policy of the employee may be treated as the primary policy to cover the cost of the repairs to the City vehicle as well as pay for additional damage to other vehicles. Since the City's vehicle fleet is self-insured, the City must make certain that the driver of a take-home vehicle has adequate personal coverage to protect the City from any unnecessary financial exposure when the driver damages City property while acting beyond the scope of his authority.

Observation #2: Section 5 (M) of CAO #5R requires all employees to be properly licensed for the vehicle they operate. The New Orleans Aviation Board's (NOAB) complies with this requirement by continual monitoring of an employee's driving records through a subscription with First Advantage ADR. NOAB is able to access an applicant's driving record by entering the driver's license number and accessing their information. Per the NOAB, the cost to access this information through the web site is approximately \$9.50 per occurrence (employee/transaction), but it may be higher if the applicant has an out-of-state license. NOAB's procedure is to check the driving record at the time of hire and at the time of promotion. The accomplishment of this task is done with minimal expense and effort. This service mitigates the risk of potential negligent entrustment liability that may result from putting the wrong person behind the wheel of a NOAB vehicle. The CAO should review this good business practice for potential application in other City departments, boards, agencies and commissions.

Observation #3: The Orleans Parish Criminal Sheriff's Office (OPCSO) process for ensuring, initiating and/or investigating suspected vehicle or equipment misuse and/or abuse in accordance with Section 5 (J) of CAO #5R provides the additional benefit, or desired outcome, of reducing employee misuse or abuse through strict disciplinary action administered through an Accident Review Board. The Board's findings and/or recommendations for disciplinary actions are forwarded to the Sheriff and/or Deputy Chief for final disposition.

The purpose of the Accident Review Board is to identify the cause of auto crashes, and through training, discipline, and/or revising department regulations, decrease or lessen the incidence and severity of auto crashes involving Sheriff's vehicles. The OPCSO disciplinary actions provided for in the Accident Review Board's Policies and Procedures include, but are not limited to:

- Indefinite suspension/termination of driving privileges
- Restitution for damage to vehicle(s)
- Termination of employment
- Additional Safe Driving Classes

The OPCSO has experienced a significant decline in employee misuse/abuse due to strict adherence to the disciplinary actions provided for in the Accident Review Board's Policies and Procedures (Third Edition). The OIG found this policy to be a good practice and an effective tool for managing the vehicle fleet. The CAO may want to consider reviewing the OPCSO policies and procedures for application in other departments, boards, agencies and commissions.

Section 6: Take-Home Vehicles

The CAO provided new and definitive policy guidelines for take home vehicles. *No guidance was provided on take-home vehicles in the old Policy No. 5.* The revised CAO #5R states "These additional rules and procedures apply to vehicles:

- Take-home assignment criteria: The following are the minimum requirements that must be applied to all take-home assignments in addition to any departmental assignment criteria:
 - The vehicle is used to perform a critical function that contributes to the overall operations and recovery of the City and maintenance of the infrastructure; and
 - The vehicle is used to respond to critical needs on a 24-hour basis
- Take-home vehicle use: Take-home vehicles are to be used for the conduct of City business. In addition, employees are permitted to travel to and from work in accordance with Internal Revenue Service rules and regulations, and during those times when they could be called back to work as determined by their appointing authority.

- Take-home vehicle use charge: Employees with take-home vehicles will be charged a fee as determined by the Circular Memorandum No. 08-06 or its latest revision. This fee will automatically be deducted from the employee's payroll check. This fee is for the purpose of reimbursement for operational costs and deferred maintenance incurred as a result of use of the vehicle to and from the work site.
- Taxable fringe benefit: Employees with assigned take-home vehicles may be subject to fringe benefit withholding as provided for in accordance with Circular Memorandum 36-86 or its latest revision and under Internal Revenue Service rules and regulations."

Major Finding #5: Prior to Hurricane Katrina, the CAO was required under Circular Memorandum No. 36-86 to prepare a calculation on a quarterly basis using the Cents-Per-Mile Rule or the Lease Value Rule, as established in Internal Revenue Service Publication 15-B, to determine the amount of the fringe benefit, if any, that should be reported as regular pay on the employees' W-2. Subsequent to Hurricane Katrina, the City has failed to report this amount on the employees' W-2s. For all pay periods commencing with the third quarter of 2005 through the present, the City may have some exposure for under reporting the regular pay and the related payroll taxes for all employees assigned a take-home vehicle.

The take-home use charge in effect prior to Hurricane Katrina and up until the pay period beginning August 24, 2008, was \$600, as established by Circular Memorandum No. 03-22, and accordingly this amount, as well as the subsequent increase to \$1,200 per year, may not be adequate to fully reimburse the City for the personal use of the vehicle. The City and the impacted employees may be at potential risk for, at a minimum, three years of taxes, and penalties and interest for under reporting income and failing to properly report and withhold taxes on any vehicle fringe benefits that have not already been reported.

Recommendation: The CAO, with the help of the department heads, should quantify the current take-home use cost and personal use benefit for previous and current employees assigned a take-home vehicle for the period commencing with the third quarter of 2005 through the present. For those employees where the value of the fringe benefit exceeds the take-home vehicle use charge the fringe benefit should be added to the regular wages of the employee. The applicable payroll taxes should be computed, including Federal income, social security, and Medicare taxes and the City should file amended W-2's for all employees affected.

Major Finding #6: The City provides fuel to all City owned vehicles including take-home vehicles. The employee does not reimburse the City for fuel put into City vehicles. Per Internal Revenue Service Publication 15-B, the Annual Lease Values do not include the fair market value of fuel provided by the City to its employees. Accordingly, the Internal Revenue Service requires in Publication 15-B that the fuel the City provided to its employees must be valued separately for inclusion in the employee's income.

Recommendation: For those previous and current employees that utilized the Lease Value Rule, as established in Internal Revenue Service Publication 15-B to determine the amount of the fringe benefit received by employees with a take-home vehicle; the CAO, with the help of the department heads, should quantify the fringe benefit received by employees as a result of the City providing fuel at no charge to these employees. The value of the fuel is a separate fringe benefit to be added in addition to any benefit calculated under the Annual Lease Value calculation. For those employees where the value of the fringe benefit from the fuel plus the fringe benefit under the Annual Lease Value method exceeds the take-home vehicle use charge the fringe benefit should be added to the regular wages of the employee. The applicable payroll taxes should be computed, including Federal income, social security, and Medicare taxes and the City should file amended W-2's for all employees affected.

Section 7: Departmental Vehicle Motor Pools

This is a new section added to CAO Policy #5R. This section establishes the vehicle motor pool basic operating procedures and protocols. Departments are to designate the minimum number of departmental pool vehicles as necessary to meet operational needs. Pool vehicle logs are to be maintained as permanent department records to aid in vehicle utilization studies.

No findings, recommendations or observations.

Section 8: Auto Allowances

This is a new section added to CAO Policy #5R which specifically incorporates CAO Policy Memorandum No. 21(R), issued on March 1, 2005, into the vehicle policy. Policy No. 21(R) addresses the procedures for obtaining, tracking, and calculating the amount of an auto allowance for eligible, approved use of private vehicles by City employees.

No findings, recommendations or observations.

Section 9: Mileage Reimbursement for Business-Related Travel

This is a new section added to CAO Policy #5R which specifically incorporates CAO Policy memorandum No. 9(R), issued November 1, 2008, into the vehicle policy. This policy states that an employee may use personal transportation such as a private automobile in lieu of air travel and provides for a mileage allowance.

No findings, recommendations or observations.

Section 10: Employee/Operator Responsibility

The employee/operator guidelines were expanded to include the employee responsibilities previously detailed in Policy 40R regarding fuel use and make the employee responsible and accountable for the following additional items:

- Ensuring that the vehicle and equipment are delivered for scheduled and/or unscheduled maintenance.
- Held accountable for vehicle and equipment abuse and/or misuse and may be held accountable for repair and/or service costs resulting from their failure to obtain services and/or repairs in a timely manner.
- Must comply with Circular Memorandum 07-07 which outlines the hurricane and natural disaster preparedness process.
- Take-home authorization must be granted by the appointing authority and approved by the CAO.
- Must receive travel authorization to conduct business related travel in City vehicles outside of the New Orleans metropolitan area in accordance with Policy Memorandum No. 9(R).
- Must use safety restraints in compliance with local and state laws.
- Parking and/or moving violations are the responsibility of the employee/operator.

Major Finding #7: The old Policy No. 5 Section IV (G) stated that “Employees who reside outside of Orleans Parish shall not be allowed to use a City vehicle as transportation to and from the residence (take home use).” This has been eliminated from the newly revised CAO Policy #5R.

The CAO applies the same take-home use charge to all employees assigned a take-home vehicle whether the employee commutes from Uptown, Baton Rouge or New Orleans East. The CAO’s “one size fits all” take home use charge may not be adequate to cover the appropriate value of the take-home fringe benefit. The taxable value of the fringe benefit for those employees would be any benefit received *in excess of* the current take-home use charge. Under existing Internal Revenue Service guidelines, the total benefit of these employer provided vehicles *in excess of* the take-home use charge would be taxable. This issue is not currently being addressed or reported by the City of New Orleans.

Recommendation: Each department should look at each individual take-home assignment and quantify the cost and personal use benefit by examining the individual commuting distance and the quantity of personal use and fuel consumption for each take-home assignment. Each department should make a determination as to whether the benefit received by the employee is greater than, equal to or less than the take-home use charge. For those employees where the value of the fringe benefit exceeds the take-home vehicle use charge the fringe benefit should be added to the regular wages of the employee. The applicable payroll taxes must be computed, including Federal income, social security, and Medicare taxes and the City should file amended W-2’s for all employees affected.

Major Finding #8: The old Policy No. 5 Section IV (H) stated very plainly that the “User employees shall keep a record of any personal use, as personal use of a City vehicle is a taxable fringe benefit.” This wording has been specifically eliminated from the newly revised CAO Policy #5R. Instead, this wording is only incorporated into the newly revised policy in Section 6(D) via a reference to Circular Memorandum 36-86. Any user of the newly revised CAO #5R would have to go to the underlying documentation to read the record keeping requirement.

In Section 6 of the referenced Circular Memorandum, it states the “Employees should keep adequate records to substantiate both the business and personal miles driven in City vehicles.” As this is a requirement of the Internal Revenue Service, the record keeping requirement should be plainly stated in the CAO’s Policy #5R and not relegated to a referenced document.

The Internal Revenue Service calls for employers to keep accurate and comprehensive travel records detailing how much mileage is used for work and how much is used for personal needs. None of the City’s departments are in compliance with the Internal Revenue Service record keeping requirements.

Recommendation: Record keeping or meeting substantiation requirements, is an important requirement for take-home vehicle users. According to Internal Revenue Service Publication 15-B, if the employee doesn’t do his own substantiation or meet the requirements, the employee is presumed to have driven the vehicle for his own use, and that value will be considered income for tax purposes. If the personal use is not documented and quantified, all use is considered personal. Per Internal Revenue Service Publication 15-B, personal use is taxable and should be included on the employee’s W-2. The OIG recommends that the CAO seek whatever documentation is available, if any, from each employee assigned a take-home vehicle and include the value attributable to the employee’s personal use of the vehicle in the gross income.

Section 11: Equipment Maintenance Division’s Responsibilities

The EMD’s responsibilities were expanded to include the following:

- Coordinate new vehicle and equipment acquisition
- Coordinate the disposition of surplus vehicles and equipment
- All vehicle emergencies and towing needs should be addressed to EMD

No findings, recommendations or observations.

Section 12: Accident Procedures

The accident procedures have been revised to now require that “All incidents and/or accidents, regardless of severity, that result in property damage, injury to employees or others, or damage to City vehicles must be reported.”

No findings, recommendations or observations.

Section 13: Vehicle Operations during Emergencies

This section now specifically identifies Circular Memorandum No. 07-07, issued on September 13, 2007, regarding vehicle storage during a weather event that is a Category 3 Storm or greater.

No findings, recommendations or observations.

Section 14: Receipt and Acknowledgment Requirements

This section was revised so that in addition to the requirement that CAO Policy #5R be kept in the vehicle at all times the vehicle should also have the vehicle registration and the City's self-insurance letter. The employee is now required to sign a form acknowledging receipt and understanding of this policy.

No findings, recommendations or observations.

Section 15: Substance Abuse and Testing

This is a new section added to the vehicle policy which references Policy Memorandum No. 89 (R), issued on September 10, 1999, which requires post accident testing.

No findings, recommendations or observations.

Section 16: Exceptions

This is a new section added to the vehicle policy which states that any department, agency, board or commission in possession of City property may request specific written exception to CAO Policy #5R. The exception must be granted by the CAO and the City Attorney.

No findings, recommendations or observations.

Section 17: Inquiries

This section was revised to direct questions related to the general provisions to the CAO and questions regarding the fuel use provisions to EMD.

No findings, recommendations or observations.

A copy of this report has been made available for public inspection at the Office of Inspector General for the City of New Orleans and is posted on the Office of Inspector General's website at www.nolaoig.org. Reference should be made to File No. MIR-09-A&R-001. If you need any assistance relative to this report, please contact E.R. Quatrevaux, Inspector General for the City of New Orleans at (504) 681-3200.

REPORT FRAUD, WASTE, AND ABUSE

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

- Complete complaint form on web site at www.nolaoig.org
- Write to Office of Inspector General for the City of New Orleans, 525 St. Charles Avenue, New Orleans, LA 70130-3409
- Call the Office of Inspector General for the City of New Orleans at (504) 681-3200

APPENDIX A

CITY OF NEW ORLEANS OFFICE OF INSPECTOR GENERAL

525 St. Charles Avenue
New Orleans, La 70130-3409
504-681-3200
Fax: 504-681-3230



July 8, 2009

Honorable C. Ray Nagin, Mayor
City Hall, Room 2E04
1300 Perdido Street
New Orleans, Louisiana 70112

Brenda Hatfield, Ph.D. Chief Administrative Officer
City Hall, Suite 9E06
1300 Perdido Street
New Orleans, LA 70112

Arnie Fielkow, Council President
City Hall, 2W40
1300 Perdido Street
New Orleans, LA 70112

Jacquelyn Brechtel Clarkson, Council Vice-President
City Hall 2W50
1300 Perdido Street
New Orleans, LA 70112

Dear Mayor Nagin, Dr. Hatfield, Councilmember Fielkow, and Councilmember Clarkson:

This Management Implication Report (MIR 09 A&R-01) is issued in connection with our evaluation of the City of New Orleans (City) passenger vehicle fleet. The MIR is designed to provide management with information concerning matters that significantly impact or transcend many departments, boards, agencies and commissions. The purpose of this MIR is to offer timely findings, recommendations and observations which effect the management of the administrative vehicle fleet.

In December, 2008, the Office of the Inspector General (OIG) issued the *Interim Report on the Management of the Administrative Vehicle Fleet* which was a report concerning the evaluation of a portion of the City's vehicle fleet that falls under the management of the Mayor and the Chief

Administrative Officer (CAO). The OIG's interim report was issued prior to the completion of an evaluation of all City departments to provide City officials an early opportunity to consider the OIG's findings, recommendations and observations.

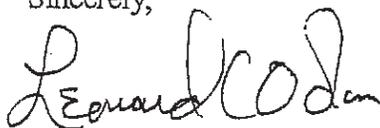
In correspondence from the CAO to the OIG dated January 30, 2009, Dr. Hatfield stated that "Immediately after receiving the report, ... (I) established a vehicle operations and policy development workgroup to review the report and further formulate strategies for both immediate and future improvements to all aspects of the City's vehicle and equipment fleet management and operations based on the recommendations in the interim report." As a result of this work group, the CAO combined the old Policy Memorandum No. 5(R), issued on March 18, 2002, and the Policy Memorandum 40(R), issued on April 21, 1994, into one comprehensive vehicle policy which included new policy related to take-home vehicles. This new comprehensive vehicle policy is called Policy Memorandum No. 5 (R) and was issued on April 28, 2009.

This MIR summarizes the revisions made to the Policy Memorandum No. 5 (R) in each of the 17 sections. As a result of this review, the OIG has eight major findings and three observations. These findings, recommendations and observations are offered in this MIR to provide additional timely comments to improve the operations and increase effectiveness of City services and the efficiency of their delivery.

If you wish to provide comments regarding the MIR, please do so by August 24, 2009. Any responses should include actions taken or planned, dates for completion of planned actions, and reasons for any disagreement with the findings and recommendations presented.

Should you have any questions, or would like to meet prior to preparing your response, please contact Neely Moody, Interim First Assistant Inspector General for Audit and Review, at 504-681-3221.

Sincerely,



Leonard C. Odom
Interim Inspector General

CHIEF ADMINISTRATIVE OFFICE

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYOR

BRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICER

Via E-mail and Hand-Deliver

January 30, 2009

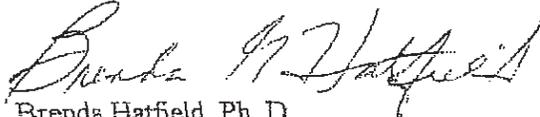
Robert A. Cerasoli
Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, LA 70130

Dear Mr. Cerasoli:

On December 17, 2008 your office submitted an Interim Report on the Management of the Administrative Fleet to the Chief Administrative Office. At the time, your office requested a response to the preliminary findings and suggestions found in the interim report. This correspondence will serve as that response and the first in what we anticipate will be an ongoing dialogue for the purpose of improving the City's vehicle and equipment fleet management and operations.

We look forward to working together to improve our operations and to increase the effectiveness of City services and the efficiency of their delivery.

Sincerely,



Brenda Hatfield, Ph. D.
Chief Administrative Officer

xc: Mayor C. Ray Nagin
City of New Orleans Council Members
Rev. Kevin Wildes, President, Ethics Review Board



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EXECUTIVE SUMMARY

This is a response to the Office of the Inspector General's Interim Report on the Management of the Administrative Vehicle Fleet. The City of New Orleans Administration recognizes that in order to reach the overarching goal of consistent and efficient provision of City services and innovation, it is necessary to continually reassess and reevaluate policies and practices. The Administration welcomes effective analysis of our operations and concrete, realistic recommendations for how we can do better.

The Office of the Inspector General (OIG) began a review of the entire City fleet in May of 2008. In December 2008, the OIG submitted an Interim Report on the Management of the Administrative Vehicle Fleet to the Chief Administrative Officer (CAO). The OIG's interim report focuses solely on a small percentage – 7% – of the City's entire fleet and excludes vehicles and equipment related to the New Orleans Police Department and several agencies, boards, and commissions. Although the Administration has already made great strides in reviewing and improving our vehicle policies and operations, there are certain aspects of our fleet management that we cannot address until the report is complete, such as final policy revisions and Police vehicles.

This response details the efforts already underway and those that are planned to improve management of the City's vehicle fleet. It also estimates both the savings and additional costs that could be incurred if the city employed different strategies for managing its significant transportation needs.

The interim report makes four general recommendations that resonate throughout its sections. They are:

- (1) **Acquire the means to capture and consider timely, accurate and complete information on the costs of acquiring, operating, maintaining and disposing of vehicles.**

City Response:

The fleet management data system used by the City is FleetFocus Maintenance Control and Management System (MCMS). The newest version of fleet management software is FleetFocus M5, which replaced MCMS and is a highly functional and useful fleet management data system. MIS is currently negotiating to get the software upgrade from a sole source supplier, and we expect to purchase the upgrade by June 2009. This upgrade will cost approximately \$225,000, which we believe to be a cost-effective solution for fleet data management. Although both the technology (MIS) and Equipment Maintenance Division (EMD) budgets were reduced substantially in 2009, we are committed to obtaining the funding needed for this system and are looking for ways to pay for the upgrade within our budgets.

- (2) Provide new and definitive policy guidance for use of City vehicles including specific criteria for assigning take-home vehicles.

City Response:

The City Administration is reviewing, reformulating, and combining existing policies 5(R) and 40(R) into one comprehensive vehicle policy. This new policy will provide departments with succinct guidance and parameters for all aspects of fleet operations and management. It addresses, among others, the following concerns:

Circular 03-02 (now 08-06): Circular 03-02 was replaced by 08-06, which increased the take-home vehicle use charge from \$600 to \$1,200 per year for each employee assigned a take-home vehicle.

Out of Parish take-home use: There are currently two sections of the City Code that offer conflicting guidance regarding the use of take-home vehicles outside of Orleans Parish. Section 2-901 of the City Code states that "No employee of the city who resides outside of the parish shall be permitted to operate a vehicle owned or leased by the city for transportation to and from his residence." At the same time, Section 2-975 (d) (5) of the City Domicile Ordinance states that "Under no circumstances shall any employee who is not domiciled in New Orleans be administered with any different treatment or negatively impacted in any way during his or her employment than an employee who is domiciled in New Orleans."

These two sections appear to contradict each other, because the prohibition of take-home use for those employees who do not reside in New Orleans is different treatment than for those employees who reside in New Orleans. Ultimately, it is anticipated that the City Council will need to implement legislative fixes to these sections of the code to ensure their consistency, and the fair and equitable treatment of all employees.

Vehicle marking (decaling): Since the release of the OIG interim report, EMD has identified 25-30 vehicles in the Administrative fleet that did not have decals – 3% – and has placed decals on them. It has been the standard operating procedure at EMD to place a decal on any vehicle that comes in for maintenance if it does not have a decal. Additionally, departments have been told that they must ensure that all of their vehicles are properly marked, and must confirm that vehicles are marked in their quarterly reports to the CAO in accordance with revisions to Policy Memorandum 5(R).

Number of Vehicles: Section 2-898 of the City Code governing Passenger Vehicles, which was last updated in 1984, limits the number of passenger-type vehicles to 50 within the Executive branch of government and 10 within the Fire Department. This law was written in a different era. The changed realities of our physical, social, and technological landscape 25 years later necessitate that this Code be revisited and revised in order to ensure the continued efficient and effective delivery of City services.

- (3) **Centralize fleet management and oversight under an experienced fleet manager with the ability and authority to test and require compliance with policy and the authority to implement best practices.**

City Response:

Three out of four of the main functions of fleet management are centralized under EMD. The Operations function of fleet management is partially decentralized to departments. Departmental vehicles and equipment are resources that are used to perform the business of that department, much like supplies and materials or personnel. It is our experience that departmental vehicles are best utilized when the assignment and day-to-day management of these vehicles are controlled by each department. Department vehicle coordinators are closer to the everyday operations of the department, and have a better understanding of the how the resources should be utilized to effectively provide City services. The City Administration is increasing to quarterly the frequency with which departments must report their vehicle information, and has added new requirements to these reports. These increased reporting requirements and increased frequency will help to enhance accountability for departmental vehicle operations.

- (4) **Perform an assessment of vehicle utilization to determine the appropriate fleet size and to establish a baseline for fleet operations.**

City Response:

We agree that an updated utilization study of City vehicles is needed to establish a new baseline for fleet operations, and welcome the help of the OIG in securing a consultant to conduct this study. This is especially critical given the severe budget shortfalls that the City will face in 2009 and 2010, and the potential for cutting costs that such a study may provide.

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Cost of Operations: Data from the latest inventory of the Administrative Fleet show that there currently are 65 Public Safety take-home vehicles, 162 Public Service take-home vehicles, and 57 Support take-home vehicles.¹

A preliminary comparative cost analysis shows that if the Administration disposes of all Public Service and Support take-home vehicles, only two other transportation methods would result in a cost savings for the first year and no other transportation methods would result in continued cost savings.

It is presumed that take-home Public Safety vehicles would be retained. Given this, the City could eliminate 219 take-home vehicles. The net operating cost of these 219 vehicles in the City's Administrative fleet is \$284,700.

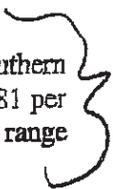
If the city eliminated these vehicles and auctioned the resulting excess vehicles, mileage reimbursement for employees for up to 5,000 miles per year would save \$185,931 in the

¹ See Appendix 1 for a full breakdown of the Administrative fleet by take-home and pool vehicles.

first year, and a rental pool would save \$85,191 in the first year. In the following years for which there is no vehicle auction revenue, all alternative transportation methods would cost more than the current operating costs for take-home vehicles. This increased cost would range from \$65,700 to \$1,483,068 more. 

The elimination of the 219 take-home vehicles would net approximately \$251,631 in one-time revenue from a vehicle auction. Because the fleet is self-insured, there would be no insurance premium savings. 

Mileage reimbursements: The current IRS mileage reimbursement rate is \$0.58 per mile. Mileage reimbursement for an average of 5,000 miles of annual use thus equals \$2,900 or \$635,100 for 219 people. Mileage reimbursement for an average of 10,000 miles of annual use equals \$5,800 or \$1,270,200 for 219 people.

Vehicle allowances: Our analysis of the vehicle allowance policies of other Southern metropolitan areas shows a range of vehicle allowances from \$350 per month to \$781 per month. For 219 people, the cost to the City for providing these allowances would range from \$919,800 to \$2,052,468 annually. 

Rental pool: The administration of a centralized motor pool would incur various costs. The vehicles in the pool would be maintained by EMD and the City would continue to pay the fuel and maintenance costs for those vehicles. In addition, new personnel would be needed to manage the pool, and the City would need to pay for a facility to park the pool vehicles. Using a rental pool could potentially save money and simplify the management process. The rental pool vehicles would be owned, maintained, and managed by a vehicle rental company. When employees needed a pool vehicle at City Hall, the vehicles would be delivered with advance notice. We are examining the feasibility of a rental motor pool of approximately 25 vehicles.

If we assume that 219 employees who no longer have a take-home vehicle utilize a compact car pool vehicle 10 times a month, the cost per year for this rental pool is \$735,840. This is a most conservative estimate, because many of the take-home vehicles that would be eliminated are Public Service vehicles that are used to conduct inspections and provide services on a daily basis.

Motor Pool: The Administration does not currently have a centralized motor pool, primarily because of the logistical challenges provided by the location of City Hall in an urban area and the lack of parking. Further, since many departments are not located at City Hall, traveling to downtown New Orleans in order to obtain a pool vehicle would decrease the efficiency with which City services could be delivered. In addition to logistical challenges, EMD does not currently have the staff resources or the facilities to manage a centralized motor pool. In an effort to evaluate and improve our vehicle policies and practices, however, the vehicle operations and policy development workgroup is investigating the feasibility of creating a small centralized motor pool of approximately 25 vehicles at or near City Hall, and is evaluating the resources that would be needed and the costs and benefits of such a pool.

INTRODUCTION

The goal of this Administration has been the consistent and efficient provision of City services and the implementation of innovative and best practices in our operations wherever possible. Achieving this goal has been especially demanding since Hurricane Katrina because we face the very real challenges of a city devastated by disaster. The severe reduction in personnel and General Fund dollars has forced us to focus on the recovery of the City, and we have had to make difficult decisions in the prioritization of our limited resources. Since Katrina, our top priority has been the recovery and rebuilding of our physical infrastructure, including City facilities, streets, affordable housing, and our levees. We have also prioritized the rebuilding of the City's financial foundation to improve our bond rating, and the recovery of our local economy. Finally, we have prioritized the redevelopment of our city's social infrastructure through the implementation of recovery projects that will revive and rejuvenate our neighborhoods and communities. In each of these endeavors, we have had to navigate extensive State and Federal bureaucracies in order to get the resources that our citizens are due and our community deserves in order to make our city whole.

Three and a half years after the most devastating disaster in our nation's history, we are still on the road to recovery, but we have come a long way. We recognize that in order to reach our goal of consistent and efficient provision of City services and innovation, we must reassess and reevaluate our policies and practices. We welcome effective analysis of our operations and concrete, realistic recommendations for how we can do better.

The Office of the Inspector General (OIG) began a review of the entire City fleet in May of 2008. In December 2008, the OIG submitted an Interim Report on the Management of the Administrative Vehicle Fleet to the Chief Administrative Officer (CAO). It is a standard operational practice in the CAO's office to review and update all policies periodically as conditions change, and the review of the vehicle policy had already begun prior to the OIG's interim report. Immediately after receiving the report, however, the CAO established a vehicle operations and policy development workgroup to review the report and further formulate strategies for both immediate and future improvements to all aspects of the City's vehicle and equipment fleet management and operations based on the recommendations in the interim report. That workgroup includes the following:

- Dr. Brenda G. Hatfield, Chief Administrative Officer
- Cynthia Sylvain-Lear, Deputy CAO
- Ceeon Quiett, Director of Communications
- James Ross, Deputy Director of Communications
- Julie Schwam Harris, Interim Director of Intergovernmental Relations
- Joseph Palestina, Assistant CAO in charge of Operations
- Maggie Merrill, Mayor's Director of Policy
- Cary Grant, Assistant CAO in charge of Budget
- Robert Mendoza, Director of Public Works
- Mary Pettingill, Fiscal Director, Mayor's Office
- Fay Forvendel, Risk Manager, Law Department
- Eric Torres, Intergovernmental Relations

- Roy Williams, Intergovernmental Relations
- Jené Liggins, Mayoral Fellow, Policy

The workgroup represents a diverse cross-section of experienced operations and policy personnel, and has met weekly since its formation.

RESPONSE TO INTERIM OIG REPORT

The OIG's interim report focuses solely on a small percentage – 7% – of the City's entire fleet and excludes vehicles and equipment related to the New Orleans Police Department and several agencies, boards, and commissions. The interim report makes four general recommendations that resonate throughout its sections. They are:

- (1) Acquire the means to capture and consider timely, accurate and complete information on the costs of acquiring, operating, maintaining and disposing of vehicles.
- (2) Provide new and definitive policy guidance for use of City vehicles including specific criteria for assigning take-home vehicles.
- (3) Centralize fleet management and oversight under an experienced fleet manager with the ability and authority to test and require compliance with policy and the authority to implement best practices.
- (4) Perform an assessment of vehicle utilization to determine the appropriate fleet size and to establish a baseline for fleet operations.

Below are listed the actions currently underway, planned, or completed by the workgroup in order to improve management of the City's vehicle fleet, and in consideration of the OIG interim recommendations for the Administrative fleet:

- (1) **Fleet Management Information System:** The fleet management data system used by the City is FleetFocus Maintenance Control and Management System (MCMS). MCMS was originally acquired by the City in 1995, and has been maintained in-house by MIS. After Hurricane Katrina, EMD was not able to access the system again until the beginning of 2006. Since that time, the use of MCMS has been limited to data storage and minimal reporting because the system is outdated. Hard copies are kept of vehicle records and the data is concurrently entered into MCMS to ensure data redundancy. Even when the system was down after Hurricane Katrina, vehicle records were compiled, and data was back-entered when the system came back online. This parallel data management process will be used while we are investigating alternative fleet management data systems.

The newest version of fleet management software is FleetFocus M5, which replaced MCMS and is a highly functional and useful fleet management data system. MIS is currently negotiating to get the software upgrade from a sole source supplier, and we expect to purchase the upgrade by June 2009. This upgrade will cost approximately

\$225,000 which we believe to be a cost-effective solution for fleet data management. Although both the MIS and EMD budgets were reduced substantially in 2009, we are committed to obtaining the funding needed for this system and are looking for ways to pay for the upgrade within our budgets.

The M5 system would enable us to manage assets, track vehicle utilization, manage equipment acquisition and disposal, perform replacement modeling, track needed license and permit renewals, track equipment availability, administer work orders, plan for needed shop resources, perform preventive maintenance forecasting, control parts inventories and track accidents and repairs. In addition, the web-architected system will be able to interface with our existing automated fuel systems. This system will also increase the centralization of fleet management data. We are confident that we will be able to migrate much of our data from MCMS to M5, which will allow us to perform analyses of past performance and to greatly increase our efficiency going forward.

- (2) **Provide new and definitive policy guidance:** The workgroup is currently reviewing all of the City's ordinances and policies relative to Administrative fleet vehicle operations, compliance with policies, and potential improvements. In addition, the workgroup has reviewed and analyzed the vehicle use policies of six Southern Cities – Atlanta, Memphis, Houston, San Antonio, Miami, and Baton Rouge – and for Jefferson and St. Tammany Parishes to determine best practices. These were chosen as a representative sample of cities in the Southeastern region and three were also used in the recent salary survey completed by the Administration, but this is not an exhaustive list. The workgroup may examine the vehicle policies of other cities or municipalities as necessary. The specific areas that the workgroup is focusing on for improvement include:

CAO Policy 5(R) and Policy 40(R): These are the two main policies that govern vehicle operations. The workgroup is reviewing, reformulating, and combining Policies 5R and 40R into one comprehensive vehicle policy. This new policy will provide departments with succinct guidance and parameters for all aspects of fleet operations and management. Specific areas of focus for the policy workgroup include:

- Reviewing and revising the fundamental criteria for the assignment of take-home vehicles
- Departmental responsibilities for vehicle operations
- Employee/operator responsibilities for vehicle operations
- EMD responsibilities for fleet maintenance and vehicle operations
- Take-home use definition and restrictions

Circular 03-02 (now 08-06): Circular 03-02 was replaced by 08-06, which increased the take-home vehicle use charge from \$600 to \$1,200 per year for each employee assigned a take-home vehicle. It is anticipated that this Circular will again be adjusted based on future legislative action of the City Council. (See "Out of Parish take-home use" below).

Circular 07-07: This policy governs the vehicle and equipment evacuation plan as part of the hurricane and natural disaster preparedness process. Departments are required to reassess and resubmit their respective plans to the Office of Emergency Preparedness each year to ensure that all City assets are protected from catastrophic loss. This memorandum will be referenced in the revised policy 5(R) for consistency.

Current take-home vehicle assignments: Information about current take-home vehicle assignments is managed by individual departments, and is required to be reported to EMD and the CAO on a quarterly basis to ensure compliance with policy 5(R). This information and an inventory have been collected and assembled in conjunction with the 4th quarter 2008 take-home vehicle report for the City Council. This report is scheduled to be completed by 1/31/09, and will provide the City Council with further information and the CAO with an updated baseline for further evaluation.

Current take-home vehicle assignment by service type: There are three vehicle use service types in the City's fleet – public safety, public service, and support. To facilitate the evaluation of take-home vehicle assignments, take-home vehicles have been assigned to each type using the following definitions:

Public Safety: Those departments and units primarily responsible for ensuring the overall safety of the public. These departments and units include the Fire Department, Emergency Medical Services, the District Attorney's Office, the Coroner's Office, the Office of Emergency Preparedness, and Executive Protection.

Public Service: Those departments and units that effectively and efficiently deliver direct City services, such as inspections and compliance monitoring. These departments and units include, but are not limited to, Safety and Permits, Human Services, Equipment Maintenance Division, the Health Department, Code Enforcement, the Office of Recovery and Development Administration, Neighborhood Stabilization, the Housing Construction Unit, Mosquito and Termite Control, the New Orleans Recreation Department (NORD), Property Management, Parks and Parkways, the Department of Public Works, and the Sanitation Department.

Support: Those departments that conduct and support the administration of City business. These departments include the CAOs Office, the Law Department, City Council staff, City Planning Commission, Civil Service, the Finance Department, the Historic District Landmarks Commission, the Mayor's office, the New Orleans Public Library, and the Vieux Carre Commission.

The data from the latest inventory of the Administrative Fleet (as of 12/31/08) show that there are currently 65 Public Safety take-home vehicles, 162 Public Service take-home vehicles, and 57 Support take-home vehicles.² Section 2-898 of the City Code governing Passenger Vehicles, which was last updated in 1984, limits the number of passenger-type vehicles to 50 within the Executive branch of government

² See Appendix I for a full breakdown of the Administrative fleet by take-home and pool vehicles.

and 10 within the Fire Department. This law was written in a different era. The changed realities of our physical, social, and technological landscape 25 years later necessitate that this Code be revisited and revised in order to ensure the continued efficient and effective delivery of City services.

Alternative transportation methods: In addition to reviewing and analyzing current vehicle operation processes and costs, the workgroup is also exploring alternatives to the current practices. These include personal vehicle use mileage reimbursements, vehicle allowances, short and long-term leasing, and rental pool possibilities. The workgroup is also reviewing the practices of other municipalities and applicable entities as referenced above to determine best practices.

Take-home vehicle cost and value: The OIG's interim report overestimates the value and cost of the take-home vehicles in the Administrative fleet. The OIG used the amount of self-insurance that the City designates for each vehicle, which is based on an assigned replacement value of the vehicle and not the current exchange value of the vehicle. Further, because the vehicles are self-insured by the City, eliminating any portion of the take-home Administrative fleet would not result in cost savings to the City's insurance policy.

Concurrent with the release of the OIG's interim report, several media reports mentioned varying amounts of money that could be saved by the City if the take-home vehicles were eliminated, ranging from \$724,000 to \$1 million. This calculation was neither mentioned nor referenced in the interim report, although the figures reportedly came from the OIG's office. In order to accurately evaluate the amount of money that the City could potentially save by eliminating take-home vehicles, it is imperative that the OIG provide the data used and methodology for analysis that led to these figures.

The vehicle workgroup has begun a preliminary evaluation of the operating costs associated with the current take-home vehicles in the Administrative fleet, as well as the costs of alternative transportation methods, in order to guide our decision-making about the size of our take-home fleet. The workgroup's calculations are based on 219 vehicles, or all of the Public Service and Support vehicles that are currently assigned as take-home. We do not include Public Safety vehicles, which we assume would continue to be assigned as take-home.

Current operating costs: The take-home vehicles of the Administrative fleet incur approximately \$2,500 apiece in fuel and maintenance fees each year, or \$547,500 total. This could be an overestimation because it assumes that all vehicles throughout the City's Administrative fleet – Public Safety, Public Service, and Support – use the same amount of fuel, which they do not. However, this average is sufficient for the purposes of this evaluation.

In addition, the current take-home usage fee is \$1,200 per vehicle, which results in \$262,800 in revenue to the City each year. The net annual operating cost for these vehicles is thus \$284,700.

Vehicle disposition: The elimination of the 219 take-home vehicles would net approximately \$251,631 in one-time revenue from a vehicle auction. The vehicles that are currently assigned for take-home use would be reassigned to departmental motor pools, and the 219 oldest and/or most worn vehicles in the fleet would be auctioned. It is estimated that these auctioned vehicles would garner \$1,500 apiece, although this is a generous estimate given the age, condition, and actual auction value of the oldest and most worn vehicles. In addition, we estimate that it would cost approximately \$351 per vehicle for vehicle disposition costs.

Mileage reimbursements: The current IRS mileage reimbursement rate is \$0.58 per mile. Mileage reimbursement for an average of 5,000 miles of annual use thus equals \$2,900 or \$635,100 for 219 people. Mileage reimbursement for an average of 10,000 miles of annual use equals \$5,800 or \$1,270,200 for 219 people.

Vehicle allowances: Our analysis of the vehicle allowance policies of other Southern metropolitan areas shows a range of vehicle allowances from \$350 per month to \$781 per month. These allowances typically cover items such as, but not limited to: insurance, vehicle maintenance and repairs, fuel, cost of financing or lease payments, and vehicle registration fees. For 219 people, the cost to the City for providing these allowances would range from \$919,800 to \$2,052,468 annually.

Rental pool: The administration of a centralized motor pool would incur various costs. The vehicles in the pool would be maintained by EMD and the City would continue to pay the fuel and maintenance costs for those vehicles. In addition, new personnel would be needed to manage the pool, and the City would need to pay for a facility to park the pool vehicles. Using a rental pool could potentially save money and simplify the management process. The rental pool vehicles would be owned, maintained, and managed by a vehicle rental company. When employees needed a pool vehicle at City Hall, the vehicles would be delivered with advance notice. We are examining the feasibility of a rental motor pool of approximately 25 vehicles. Preliminary rental cost estimates are as follows:

Compact Car:	\$28 day	\$150 week	\$625 month
Midsize Car:	\$32 day	\$190 week	\$690 month

If we assume that 219 employees who no longer have a take-home vehicle utilize a compact car pool vehicle 10 times a month, the cost per year for this rental pool is \$735,840. This is a most conservative estimate, because many of the take-home vehicles that would be eliminated are Public Service vehicles that are used to conduct inspections and provide services on a daily basis.

Table 1. Operating costs to the City for the use of various employee transportation methods. Calculations are based on 219 vehicles in the Administrative Fleet.

Fuel and Maintenance - \$2,500 X 219	\$	(547,500)
Take-home use charge - \$1,200 X 219	\$	262,800
Total Cost to the City	\$	(284,700)
Vehicle price - \$1,500 X 219	\$	328,500
Vehicle disposition cost - \$351 X 219	\$	(76,869)
Total One-time Revenue	\$	251,631
5,000 Annual Miles - \$2,900 X 219	\$	(635,100)
10,000 Annual Miles - \$5,800 X 219	\$	(1,270,200)
\$350/month X 219	\$	(919,800)
\$781/month X 219	\$	(2,052,468)
\$28/day, 10 days per month X 219	\$	(735,840)

A preliminary comparative cost analysis shows that if the Administration disposes of all Public Service and Support take-home vehicles, only two other transportation methods would result in a cost savings for the first year. Mileage reimbursement for 5,000 annual miles would save \$185,931 in the first year and a rental pool would save \$85,191 in the first year. In the following years for which there is no vehicle auction revenue, all alternative transportation methods would cost more than the current operating costs for take-home vehicles – from \$65,700 to \$1,483,068 more. See Appendix II for the preliminary comparative cost analysis of the various operating costs detailed above.

The Administration is committed to cost savings, especially in light of the precarious budget situation the City faces for 2009 and 2010. We ask that the OIG provide us with the data and methodology used to calculate their cost savings so that we can determine whether or not savings are possible.

Vehicle marking (decaling): Since the release of the OIG interim report, EMD has identified 25-30 vehicles in the Administrative fleet that did not have decals – 3% – and has placed decals on them. It has been the standard operating procedure at EMD to place a decal on any vehicle that comes in for maintenance if it does not have a decal. Additionally, departments have been told that they must ensure that all of their vehicles are properly marked, and must confirm that vehicles are marked in their quarterly reports to the CAO in accordance with revisions to Policy Memorandum 5(R) (see above).

Existing motor pools: Many departments within the Administration have existing motor pools in accordance with Section 2-900 of the City Code. In fact, all vehicles in the Administrative fleet that are not assigned as take-home vehicles are considered pool vehicles. According to the latest vehicle report from EMD (Appendix D), there are 1026³ vehicles in the Administrative fleet, 284⁴ of which are assigned as take-home vehicles. This means that 742 of these vehicles, or 72% of the Administrative fleet, are pool vehicles. These pools are located onsite at many of the operational departments such as Parks and Parkways, NORD, the Sanitation Department, and the Department of Public Works in order to deliver City services, and they are managed by the departments. As with take-home vehicle assignments, information about pool vehicles is managed by individual departments and reported to EMD and the CAO. Information about departmental pool vehicles and an inventory have been compiled in conjunction with the 4th quarter take-home report for the City Council, and will be used as a baseline by the CAO for further evaluation.

The Administration does not currently have a centralized motor pool, primarily because of the logistical challenges provided by the location of City Hall in an urban area and the lack of parking. Further, since many departments are not located at City Hall, traveling to downtown New Orleans in order to obtain a pool vehicle would decrease the efficiency with which City services could be delivered. In addition to logistical challenges, EMD does not currently have the staff resources or the facilities to manage a centralized motor pool. In an effort to evaluate and improve our vehicle policies and practices, however, the workgroup is investigating the feasibility of creating a small centralized motor pool of approximately 25 vehicles at or near City Hall, and is evaluating the resources that would be needed and the costs and benefits of such a pool.

Out of Parish take-home use: There are currently two sections of the City Code that offer conflicting guidance regarding the use of take-home vehicles outside of Orleans Parish. Section 2-901 of the City Code states that "No employee of the city who resides outside of the parish shall be permitted to operate a vehicle owned or leased by the city for transportation to and from his residence." At the same time, Section 2-975 (d) (5) of the City Domicile Ordinance states that "Under no circumstances shall any employee who is not domiciled in New Orleans be administered with any different treatment or negatively impacted in any way during his or her employment than an employee who is domiciled in New Orleans."

These two sections appear to contradict each other, because the prohibition of take-home use for those employees that do not reside in New Orleans is different treatment

³ This number represents all operational vehicles in the Administrative fleet, including passenger-type vehicles and vehicles used for performing City work, such as dump trucks, tractors, etc. The interim OIG report only included passenger-type vehicles.

⁴ This number differs from the number used in the interim OIG report because the City's vehicle report includes take-home vehicles in the District Attorney's (DA) office. At the time of the OIG evaluation, the DA did not show that they had vehicles assigned as take-home.

than for those employees that reside in New Orleans. Additionally, as part of its overall focus on updating ordinances, policies and procedures, the vehicle workgroup proposes that employees who live beyond a certain distance from the city would be charged an additional take-home vehicle use charge to cover increased fuel and maintenance costs for those vehicles. The current code would not allow this differential charge. The City Attorney's office will review these contradictory codes and will recommend legislation that would clarify these provisions. The City Attorney's Office will suggest updated language to reconcile the conflict between these ordinances. Ultimately, it is anticipated that the City Council will need to adopt legislation to address these sections of the code for consistency, and the fairness to all employees.

Finally, a majority of the take-home vehicles in the City fleet are in the Police Department. We need to see the results and recommendations in the OIG's final report that covers NOPD before we can determine the true impact of these codes and policies, and can make final policy and legislative decisions.

Risk management and insurance: The City's Risk Manager is represented in the vehicle workgroup, and part of the workgroup's analysis consists of investigating the costs to the City that are incurred by the entire Administrative fleet. In addition, we are analyzing the current requirements and policies regarding vehicle insurance.

Fuel auditing and reconciliation: The OIG interim report analyzed the City's fuel use reports for the period of July 3, 2008 through September 21, 2008. As noted, the City changed automated fuel dispensing vendors in mid-June 2008, and implemented an improved fuel delivery and dispensing auditing and reconciliation process. Reports that we have received for the last three months of 2008 show that fuel inventory variances are within industry standards. This auditing and reconciliation process will continue with the monthly reports received from our fuel monitoring vendor. Although the OIG found no reports on audits or reports of any potential impropriety in fuel usage, Departmental Vehicle Coordinators and directors will be required to give a high priority to their review of departmental fuel reports, investigate irregularities, take corrective action, and report their findings to the CAO.

Quarterly take-home vehicle reports to the City Council: These reports were submitted in 2008, and will continue to be submitted as required. The report for 4Q2008 will be submitted by January 31, 2009, and the 2009 quarterly reports will be submitted in April 2009, July 2009, October 2009, and January 2010.

- (3) **Centralization of Fleet Management:** There are four main functions of fleet management: Maintenance, Fueling, Vehicle Acquisition/Disposition, and Operations. The first three functions are centralized and managed by EMD and the CAO. The fourth function, Operations, is partially decentralized to departments. Departmental vehicles and equipment are resources that are used to perform the business of that department, much like supplies and materials or personnel. It is our experience that departmental vehicles are best utilized when the assignment and day-to-day management of these vehicles are

controlled by each department. Department vehicle coordinators are closer to the everyday operations of the department, and have a better understanding of how the resources should be utilized to effectively provide City services. At the same time, the departments have increased responsibility for their vehicles in this management structure, and should be accountable for their operations. Departments provide detailed vehicle reports to EMD and the CAO on a regular basis.

All departments have faced a drastic reduction in staffing and resources since Hurricane Katrina, and their main priorities have been the recovery of the City and the delivery of City services. We recognize, however, that it is time again to evaluate and enhance how departments manage their vehicle operations. To that end, we are increasing to quarterly the frequency with which departments must report their vehicle information, and have added new requirements to these reports. New requirements include the certification that vehicles are marked properly, as well as justification for take-home vehicle assignments. Increased reporting requirements and frequency will help to enhance accountability for departmental vehicle operations.

We agree that general guidelines are necessary for departmental vehicle operations. The workgroup is working to enhance and add to those guidelines, such as the fundamental take-home assignment criteria. In addition, the revised vehicle policy will include a requirement that all departments establish internal departmental fleet operations policies, guidelines, and practices, and that those policies be submitted to and approved by the CAO's office. We also agree that departments should adhere to general operational guidelines that are established by the CAO's office, and that some centralization (such as a small motor pool) may be advantageous. We will further study the feasibility and the costs of a small centralized motor pool.

- (4) **Vehicle utilization, fleet size, and a baseline for fleet operations:** As stated above, the Administration's priority since Hurricane Katrina has been the recovery of the City and the delivery of City services. We recognize that we must more intensively re-evaluate many of our operations and policies in order to increase our effectiveness and efficiency, and to implement best practices. We agree that an updated utilization study of City vehicles is needed to establish a new baseline for fleet operations, and welcome the help of the OIG in securing a consultant to conduct this study. This is especially critical given the severe budget shortfalls that the City will face in 2009 and 2010, and the potential for cutting costs that such a study may provide.

The enhancement of fundamental take-home vehicle assignment criteria and the assessment of our operational fleet will help us determine what our vehicle needs are, and what an appropriate fleet size would be. In addition, the acquisition of a new fleet management system such as M5 will provide us with much better utilization and cost information on which to base our decisions. We look forward to working with the City Council on the adjustment of existing passenger vehicle legislation so that it will better reflect the current needs of the City. The culmination of our policy decisions, attainment of a new fleet management system, vehicle utilization assessments, and cost analyses will result in the establishment of an updated baseline for fleet size and fleet operations.

ACTION ITEMS

The following are the specific action items that the Administration is committed to performing:

- Submission of quarterly take-home vehicle reports to the City Council – January 2009, April 2009, July 2009, October 2009, January 2010
- Completion of Departmental Vehicle Reports to EMD and CAO – January 2009, April 2009, July 2009, October 2009, January 2010
- Completion of decal installation on Administrative fleet – February 2009
- Issuance of revised CAO Policies 5(R) and 40(R) – March 2009, pending revised Codes from the City Council⁵ and receipt of final OIG vehicle report which includes NOPD
- Proposal to City Council regarding legislative fixes on out of parish take-home use – March 2009
- Identification of an updated Fleet Management Information System – June 2009
- Vehicle utilization study – November 2009, pending Council appropriation

CONCLUSION

This Administration is committed to continually improving all aspects of the City's vehicle and equipment management and operations. As described above, we have already begun to evaluate our policies and processes and make improvements based on the preliminary recommendations in the interim report. The OIG's interim report examined 187 vehicles in the Administrative fleet – less than 7% of the entire City fleet of approximately 2,700 operational vehicles. Therefore, the current operational changes and policies revisions detailed above are based on the observation of a very small proportion of the City fleet. The New Orleans Police Department fleet uses the majority of our vehicle resources, and we cannot significantly increase the efficiency of our fleet management until we have the results of the entire evaluation. We eagerly await the second part of the OIG's report which will focus on the bulk of our fleet, and we urge that it be completed so that it can provide us with pertinent findings as soon as possible.

We look forward to receiving the final comprehensive vehicle report, and the additional recommendations of the OIG. Although the Administration has already made great strides in reviewing and improving our vehicle policies and operations, there are certain aspects of our fleet management that we cannot address until the report is complete, such as final policy revisions and Police vehicles. Furthermore, the City Council may not want to move on legislative improvements and reconciliations without a comprehensive analysis of the entire fleet.

Transparency and cooperation are necessary if we are to improve our operations and implement innovative and best practices. This is the first interim report by the Office of the Inspector General that has been submitted to the Administration. Since this is the first formal interim response that the Administration has prepared, it is important to point out that we are operating without any formal guidance from the OIG's office as to proper protocol and procedures. We

⁵ Various code revisions will be necessary to reconcile domicile requirements, out of parish use, fair and equitable treatment, and vehicle use charges.

want to ensure that we are complying with all rules and guidelines regarding OIG actions. In anticipation of future reports, we ask that the OIG provide us with its governing policies which were required by Chapter 2, Article XIII, 2-1120 (16) (c) within 180 days of the employment of the Inspector General, and operations manual as required by Chapter 2, Article XIII, Section 2-1120 (13). We understand that City Council action is necessary for the approval of the OIG's governing policies, and hope that this process is as expeditious as possible. It is vital that the OIG provide these policies and operational guidelines to the Administration so that we have a clear understanding of how the OIG is to conduct evaluations and inspections, how results will be reported, and how we are to respond.

APPENDIX I. Take-home and Pool Assignments of Operational Vehicles and Equipment in the Administrative Fleet⁶, by Department and Service Type, 12/31/08

	Department	Take-Home	Pool Vehicles	Total	Service Type
COR	Coroner	8 ⁷	5	13	SAFETY
DA	District Attorney	25	12	37	SAFETY
EMS	Emergency Medical Services	5	68	73	SAFETY
FD	Fire Department	23	114	137	SAFETY
MAYOR	Mayor's Office (Safety)	2	0	2	SAFETY
OEP	Office of Emergency Preparedness	2	5	7	SAFETY
	Sub-Total	65	204	269	

	Department	Take-Home	Pool Vehicles	Total	Service Type
DSP	Safety & Permits	50	6	56	SERVICE
DW	Human Services	2	3	5	SERVICE
EMD/Fleet	Equipment Maintenance Division	5	7	12	SERVICE
HD	Health Department	5	20	25	SERVICE
MAYOR	Mayor's Office (Service)	38	0	38	SERVICE
MCS	Mosquito Control	5	56	61	SERVICE
NORD	New Orleans Recreation Dept	4	20	24	SERVICE
PB	Public Bldgs. -Property Management	16	25	41	SERVICE
PKW	Parks and Parkway	5	201	206	SERVICE
PWD/STS	Public Works Department formerly Streets	20	85	105	SERVICE
SAN	Sanitation Department	12	82	94	SERVICE
	Sub-Total	162	505	667	

	Department	Take-Home	Pool Vehicles	Total	Service Type
ADM	Administrative -CAO,OMI, CPA	7	7	14	SUPPORT
ATTY	Attorney	1	4	5	SUPPORT
CLMN	City Council	7	8	15	SUPPORT
CPL	City Planning Commission	1	2	3	SUPPORT
CS	Civil Service	2	0	2	SUPPORT
FIN	Finance Department	3	1	4	SUPPORT
HDLC	Historic District Landmarks Commission	2	0	2	SUPPORT
MAYOR	Mayor's Office (Support)	32	2	34	SUPPORT
PL	Library	1	9	10	SUPPORT
VCC	Vieux Carre Commission	1	0	1	SUPPORT
	Sub-Total	57	33	90	
		Totals			
		Take-Home	Pool Vehicles	Total	
		284⁷	742	1026⁸	

⁶ This table does not include 7 vehicles assigned to elected officials (Mayor and City Council).

⁷ Includes take-home vehicles in the DA's Office, which were not counted in OIG interim report

⁸ Includes passenger-type vehicles and vehicles used for performing City work, such as dump trucks, tractors, etc. OIG interim report only included passenger-type vehicles.

APPENDIX II. Preliminary Comparative Cost Analysis of Multiple Employee Transportation Methods

Table 1. Operating costs to the City for the use of various employee transportation methods. Calculations are based on 219 vehicles in the Administrative Fleet.

Fuel and Maintenance - \$2,500 X 219	\$	(547,500)
Take-home use charge - \$1,200 X 219	\$	262,800
Total Cost to the City	\$	(284,700)
Revenue		
Vehicle price - \$1,500 X 219	\$	328,500
Vehicle disposition cost - \$351 X 219	\$	(76,869)
Total One-time Revenue	\$	251,631
Operating Costs		
5,000 Annual Miles - \$2,900 X 219	\$	(635,100)
10,000 Annual Miles - \$5,800 X 219	\$	(1,270,200)
Monthly Allowances		
\$350/month X 219	\$	(919,800)
\$781/month X 219	\$	(2,052,468)
Other Costs		
\$28/day, 10 days per month X 219	\$	(735,840)

Table 2. Preliminary comparative cost analysis of multiple employee transportation methods, based on 219 employees.

Current Operating Costs	\$	(284,700)	\$	(284,700)
Alternative Transportation Scenarios				
Mileage 5,000/year	\$	(98,769)	\$	(350,400)
Mileage 10,000/year	\$	(733,869)	\$	(985,500)
Allowance \$350/month	\$	(383,469)	\$	(635,100)
Allowance \$781/month	\$	(1,516,137)	\$	(1,767,768)
Rental Pool	\$	(199,509)	\$	(451,140)

* All alternative scenarios include one-time vehicle auction revenue of \$251,631 and exclude fuel and maintenance costs of \$284,700

** All alternative scenarios exclude fuel and maintenance costs of \$284,700

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYOR

BRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICER

August 20, 2009

Leonard C. Odom
Interim Inspector General
Office of Inspector General
525 St. Charles Avenue
New Orleans, LA 70130

Re: Management Implication Report (MIR 09 A&R-01)

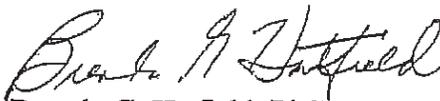
Dear Mr. Odom:

This letter acknowledges receipt of the Management Implication Report (MIR 09 A&R-01) issued on July 8, 2009, evaluating the passenger vehicle fleet of the City of New Orleans. At that time, your office requested responses, if any, to be provided by August 24, 2009.

As stated in our initial response, it is anticipated that this will be an ongoing dialogue. However, this issue is also one of complicated measure. We have implemented additional guidelines to address some of the findings in the MIR and would like to share this information with your office. In an effort to provide a detailed, comprehensive response, our office will submit a report by Thursday, September 24, 2009.

Once again, we look forward to working together to improve our operations and to increase the effectiveness and efficiency of City government.

Sincerely



Brenda G. Hatfield, Ph.D.
Chief Administrative Officer

xc: Penya Moses-Fields, Esq.
Brenda Breaux, Esq.





APPENDIX "D"

Office of Inspector General
City of New Orleans
525 Saint Charles Avenue
New Orleans, LA 70130-3409
Office: (504) 681-3200 Fax: (504) 681-3230
www.nolaogig.org

August 26, 2009

Dr. Brenda G. Hatfield, Ph.D.
Chief Administrative Officer
City of New Orleans
1300 Perdido Street, Room 9E06
New Orleans, LA 70112

Re: **Management Implication Report (MIR 09 A&R-01)**

Dear Dr. Hatfield:

Your request for an extension until September 24, 2009 to submit implemented guidelines to address some of the findings in the MIR is approved. We feel this is a very reasonable request for an extension due to the complexity of issues involved.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Leonard C. Odom".

Leonard C. Odom
Inspector General

LCO/bb

cc: Penny Moses-Fields, Esq.
Brenda Breaux, Esq.

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYOR

BRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICER

VIA ELECTRONIC MAIL

September 24, 2009

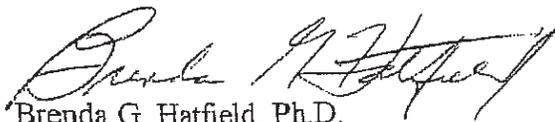
Dr. David Westerling
Interim Inspector General
City of New Orleans
535 St. Charles Avenue
New Orleans, LA 70130

Dear Dr. Westerling:

This correspondence serves as the City's interim response to the Office of the Inspector General's Management Implication Report (MIR 09 A&R-01) issued on July 8, 2009, in connection with its evaluation of the City of New Orleans passenger vehicle fleet. As our interim response indicates, due to the federal tax law implications of the major findings in the MIR, the City Attorney's Office has retained the law firm of Bryant Miller Olive to assist the City Attorney in resolving any potential tax related matters. As further outlined in the response, Bryant Miller Olive is currently synthesizing raw data relating to take-home vehicle use. It is projected that their work will be finished soon in order for us to issue a final response to the MIR by October 30, 2009. In the interim, the attached sets forth our initial reply to the MIR, the status of data collections, and an outline of proposed amendments to Policy Memorandum No. 5(R) regarding personal vehicle use that we expect to submit on October 30, 2009, as part of our final response to the MIR.

We appreciate your efforts to assist us in instituting what your office deems as best practices in connection with the Vehicle Policy. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Brenda G. Hatfield, Ph.D.
Chief Administrative Officer

cc: Mayor C. Ray Nagin
Penya Moses-Fields, Esq.



**INTERIM RESPONSE OF THE CITY OF NEW ORLEANS
TO THE
OFFICE OF THE INSPECTOR GENERAL'S
MANAGEMENT IMPLICATION REPORT (MIR 09 A&R-01)
ISSUED ON JULY 8, 2009**

This is an interim response ("Interim Response") to the Office of the Inspector General's (the "OIG") Management Implication Report (MIR 09 A&R-01) (the "MIR") issued on July 8, 2009, in connection with its evaluation of the City of New Orleans (the "City") passenger vehicle fleet. The City of New Orleans Administration (the "Administration") recognizes that the MIR will assist it in implementing "best practices" in connection with the administration of the passenger vehicle fleet.

The Office of the Inspector General (OIG) began a review of the entire City vehicle fleet in May 2008. In December 2008, the OIG submitted an Interim Report ("Interim Report") on the Management of the Administrative Vehicle Fleet to the Chief Administrative Officer ("CAO"). In response to the Interim Report, the CAO issued a new comprehensive vehicle policy entitled Policy Memorandum No. 5 (R) (the "Vehicle Policy") on April 28, 2009. The OIG issued the MIR in response to the Vehicle Policy. It is worth noting that the focus of the OIG's major findings in the MIR relates to one central issue: Accountability of the City and certain of the City's employees relating to personal use of take home vehicles.

BACKGROUND:

Prior to Hurricane Katrina, the City accounted for Personal Vehicle Use ("PVU") under the Annual Lease Value methodology set forth under Internal Revenue Service ("IRS") statutes and regulations (the "Code"). Essentially, each employee maintained records with respect to PVU and this taxable fringe benefit was reflected in the employee's gross income on IRS Form W-2 (the "W-2 Adjustment"). Post-Hurricane Katrina, the W-2 Adjustment policy was changed to an annual take home use charge ("Take Home Use Charge") of \$600 until August 24, 2008, and thereafter, a subsequent increase to \$1200 per year. The MIR Report indicates that in order to comply with the Code, the W-2 Adjustment policy should have been adhered to post-Hurricane Katrina, from August 2005 to the present (the "Noncompliance Period"), in lieu of the Take Home Use Charge. This lack of compliance may have resulted in potential federal tax liabilities for the City and the affected employees with respect to PVU. Also, the City's automated fuel use system was partially destroyed by Hurricane Katrina, resulting in the City's use of a manual system for a period of time post-Katrina. Due to the technical legal nature of the potential federal tax liability, the City Attorney has retained the firm of Bryant Miller Olive ("BMO") to assist the City Attorney's Office in determining whether there was such liability and the extent of the liability. Once such potential federal tax liability has been quantified, BMO will work with the Internal Revenue Service ("IRS") to resolve the payment of such liability or any settlement relating thereto.

ACTIONS TAKEN TO DATE:

The following information provides the methodology and approach the administration is utilizing to address the issues related to the MIR. As the OIG suggested in the MIR, the department heads are working to provide BMO with the data needed to calculate any potential Federal tax liabilities. As you can surmise, since PVU and fuel use records have not been maintained since Hurricane Katrina, and certain data were destroyed as a result of Hurricane Katrina, most of the data provided have been in a raw format and BMO essentially has to combine various raw source data with the goal of trying to recreate PVU and Personal Fuel Use ("PFU") since Hurricane Katrina. We are still obtaining the final portions of data necessary for BMO to make specific determinations as to federal tax liabilities of the City and affected employees, and expect to have all information to them by September 30, 2009. In turn, BMO will be able to produce the specific amounts of any potential federal tax liability by October 30, 2009. However, it should be noted that if BMO cannot verify the methodologies that various City departments used to compile certain portions of the post-Hurricane Katrina data, it will necessitate the use of actual PVU and fuel use data averages based on pre-Katrina data, under the prior W-2 Adjustment Policy. This use of "averages" may be rejected by the IRS as the IRS may deem all use of the vehicles during the Noncompliance Period to be "personal use".

The City plans to provide a final response, once BMO is able to compile the appropriate data. However, in order to be as responsive as possible, at this juncture, we hereby provide you with interim responses to the major findings, and as indicated previously, in some cases a status of the data collection relating to certain major findings, with complete and final responses to be submitted on October 30, 2009.

Set forth below are each major finding and our responses to your recommendations:

Major Findings #1 and #2

- **Major Finding #1:** The City may owe additional Federal income taxes, interest and penalties for failure to report income of employees with a take-home vehicle.
- **Major Finding #2:** City's employees may owe additional Federal income taxes, interest and penalties for failure to report income related to take home vehicles.
- **Response:** The City and affected employees may owe additional Federal income taxes, interest and penalties for failure to report income related to take home vehicles. However, we are working to determine the extent of that liability with BMO. Upon this determination, BMO and the administration will initiate contact with IRS in an effort to resolve any potential liability. Set forth below are the data that were delivered to BMO thus far and data to be delivered.

DATA REQUESTED	STATUS
1. List of PVU cars in use prior to Hurricane Katrina	To be received by September 30, 2009
2. List of PVU cars purchased since Hurricane Katrina	Received September 11, 2009 for 1300 cars. We have narrowed list to PVU cars based on VIN numbers
3. List of fair market value ("FMV") of each PVU car	On September 10, the City requested that BMO determine the FMV of each PVU car and we agreed to do so. Can complete upon receipt of item 1
4. List of each previous and current employee assigned a take home car (based on VIN numbers)	Received partial data September 11-22; received 5 of 12 quarters; other quarterly data based on VIN number unavailable so may need to use averages; trying to determine if we can use CIN (City Inventory Number) to create chart
5. List of Take Home Use Charges paid by each employee	Received August 21; verifying the methodology for employee charge to ensure reliability
6. List of PVU for each employee	The City does not have this information. If the City can verify the methodology in Item 5, we can use that to determine PVU, although preliminary inquiries have indicated that such Take Home Use Charge methodology may not be reliable. As an alternative, could be provided and used as any contingent upon acceptability by IRS. Need 2004 data as an alternative and use as average but no guarantee this will be acceptable to the IRS.
7. Fuel use charge related to PVU	The City does not have this information. Average fuel use for 2nd quarter 2009 is 2773 Need 2004 data as an alternative but no guarantee this will be acceptable to the IRS.

As you can determine from the list above, we have been working diligently to provide reliable data to BMO, but due to Hurricane Katrina it may be impossible to obtain reliable data acceptable to the IRS. However, final resolution with respect to this matter is contingent upon the acceptability by the IRS.

Major Findings #3, #4 and #5

- **Major Finding #3:** Lack of compliance with IRS requirements for documentation of personal use of vehicles at the department level.

- **Major Finding #4:** Lack of compliance with IRS requirements for documentation of personal use of vehicles at the employee level.
- **Major Finding #5:** Lack of compliance with IRS requirements to value and include separately the fringe benefit received from fuel provided to City employees for inclusion in the employee's income.

Response: The City is currently amending the Vehicle Policy to provide specific guidelines to departments and employees relating to PVU as a taxable fringe benefit. Specifically, the administration has implemented the daily recordkeeping regarding PVU and PFU as well as departmental requirements to compile such employee PVU records on a monthly basis. These items will be included in any future revisions and/or amendments to Policy Memorandum 5(R). The City will value and account for PVU and PFU as separate fringe benefits provided to City employees for inclusion in the employees' income.

Major Finding #6

Major Finding #6: The City's take-home use charge is not adequate to cover fringe benefit for *all* employees with a take home vehicle.

Response: The City notes that in order for us to come to this conclusion, for each employee we have to determine the FMV of the vehicle used, the PVU, and the PFU for each employee. It is possible that the Take Home Use Charge may be adequate for cars with low FMVs. However, as part of its "best practices," the City commits to determine the FMV for its vehicle fleet on an annual basis, maintain records relating to daily PVU and PFU, and determine on a quarterly or more frequent basis whether the affected employee owes additional income and other taxes relating to such fringe benefits.

Major Finding #7

Major Finding #7: The City's new take-home policy may not be in compliance with Louisiana State statute.

Response: We disagree with major finding #7. The MIR states that take-home vehicle use may be construed as violating Louisiana Constitution (1974) Article 7 Section 14, which generally prohibits the state and its political subdivisions from loaning, pledging or donating public funds, assets or property to persons, associations or corporations, public or private. The OIG recommends that the City seek an opinion of the Attorney General regarding the legality of every take home vehicle assignment.

While we appreciate the OIG's recommendation to seek an opinion of the Attorney General, we believe that seeking an opinion in connection with each existing and particularly each new car assignment is impractical in everyday application and is not warranted. Currently, each Department reviews each take home assignment to ensure that it conforms to the Cabela's case law standard cited in the MIR to ensure compliance with the constitutional prohibition against the donation of public funds.

Major Finding #8

Major Finding #8: The City's vehicle policy fails to establish the minimum personal insurance requirements for employees provided with a take-home vehicle to cover damage related to an employee acting beyond the scope of their authority.

Response: Policy Memorandum 5(R) will be amended to reflect the establishment of the following minimum personal insurance requirements for PVU:

- Each Department will require that every employee with a take-home vehicle shall provide a copy of their current personal automobile insurance policy to the appointing authority. It shall be the responsibility of each department to ensure that insurance policies or proof of insurance coverage are submitted as they are renewed. Copies shall be provided to the City's Risk Manager. Please be advised that personal vehicle usage is not covered by the City's self insurance program.
- Every employee with a take-home vehicle should endorse their current Personal Automobile Policy to ADD coverage for Use of Non-Owned Autos - Broad Form including Physical Damage Coverage.
- The following not less than minimum personal automobile insurance limits shall be required of every employee with a take-home vehicle:
 - Bodily Injury and Property Damage Liability - Mandatory State Minimum Financial Responsibility Limits
 - Medical Payments - \$1,000
 - Uninsured Motorists - No less than the Minimum Financial Responsibility limits, or your liability limits, whichever is greater
 - Comprehensive and Collision the deductible will be the sole responsibility of the employee and will not be borne in any way by the City, and all property damage losses will be paid to the City.

Any employee with a take home vehicle that does not own a personal vehicle or have a Personal Automobile Insurance policy must purchase a Personal Non-Owned – Broad Form Liability Automobile Policy, including Physical Damage coverage. The liability limits shall be at least the Mandatory State Minimum Financial Responsibility Limits.

Conclusion

The City will provide a follow-up to this Interim Response by October 30, 2009. In the final response, we will determine the federal tax liability, if any, of the City and affected employees related to the PVU taxable fringe benefit and the separate fuel use relating to such PVU, based on either actual data compiled for the Noncompliance Period or 2004 average use, which will dispose of major findings #1 and #2.

With respect to major findings #3-7, Policy Memorandum 5(R) will be amended to address employee and departmental accounting of PVU and PFU, taking into account Take Home Use Charges and annual FMVs of personal use vehicles, resulting in a more accurate calculation of such taxable fringe benefits for inclusion in the employee's income.

Finally, major finding #8 will be addressed by amending the Policy Memorandum 5(R) to reflect the establishment of the personal insurance requirements for PVU.

The City appreciates OIG efforts to implement "best practices" in connection with the Vehicle Policy and welcome any additional thoughts that may assist us in our efforts to develop these practices.

CHIEF ADMINISTRATIVE OFFICE

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYORBRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICERVia Electronic Mail and Hand-Delivery

October 30, 2009

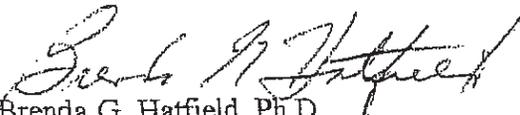
Dr. David Westerling
Supervisory Forensic Engineer
Office of Inspector General
535 St. Charles Avenue
New Orleans, LA. 70130

Dear Dr. Westerling:

Pursuant to your request, this correspondence serves as the City's final response to the Office of the Inspector General's Management Implication Report (MIR 09 A&R-01) issued on July 8, 2009 (the "MIR"), in connection with its evaluation of the City of New Orleans passenger vehicle fleet. As indicated in our Interim Response dated September 24, 2009, due to the federal tax law implications of your major findings in the MIR, the law firm of Bryant Miller Olive was retained to assist the City Attorney's Office in resolving any potential tax related matters. As further outlined in this response, Bryant Miller Olive has compiled and synthesized the raw data relating to take home vehicle use. After review of the data, the potential tax liabilities have been identified and an estimate is outlined in this final response. Over the next several months, the City Attorney with the assistance of Bryant Miller Olive will finalize the data and work with the Internal Revenue Service to resolve any tax liabilities. Once we reach final agreement with the Internal Revenue Service, we will inform you of the results.

Once again, we appreciate your efforts to assist us in instituting the best practices in connection with the Vehicle Policy.

Sincerely,


Brenda G. Hatfield, Ph.D.
Chief Administrative Officercc: Mayor C. Ray Nagin
Penya Moses-Fields, Esq., City Attorney
Ed Quatrevaux, Inspector General1300 PERDIDO STREET | SUITE 9E06 | NEW ORLEANS, LOUISIANA | 70112
PHONE 504.658.8600 | FAX 504.658.8648

FINAL RESPONSE OF THE CITY OF NEW ORLEANS
TO THE
OFFICE OF THE INSPECTOR GENERAL'S MANAGEMENT IMPLICATION REPORT
(MIR 09 A&R-01) ISSUED ON JULY 8, 2009

This is the final response ("Final Response") to the Office of the Inspector General's (the "OIG") Management Implication Report (MIR 09 A&R-01) (the "MIR") issued on July 8, 2009, in connection with its evaluation of the City of New Orleans (the "City") passenger vehicle fleet. The City of New Orleans administration recognizes that the MIR will assist in implementing "best practices" in connection with the administration of the passenger vehicle fleet.

The Office of the Inspector General (the "OIG") began a review of the entire City vehicle fleet in May 2008. In December 2008, the OIG submitted an Interim Report ("Interim Report") on the Management of the Administrative Vehicle Fleet to the Chief Administrative Officer ("CAO"). In response to the Interim Report, the CAO issued a new comprehensive vehicle policy entitled Policy Memorandum No. 5 (R) (the "Vehicle Policy") on April 28, 2009. The OIG issued the MIR in response to the Vehicle Policy, which focused on the accountability of the City and its employees' use of take home vehicles. On September 24, 2009, the CAO submitted an Interim Response of the MIR to the OIG. The Interim Response resolved all of the major findings of the MIR other than Major Findings #1 and #2. This Final Report addresses those two findings.

Facts

The Internal Revenue Service ("IRS") requires that the City account for personal vehicle use ("PVU") under the annual lease value methodology set forth under the Internal Revenue Code of 1986 and its regulations (the "Code"). Essentially, each employee is required to maintain records with respect to PVU and this taxable fringe benefit is reflected in the employee's gross income on IRS Form W-2 (the "W-2 Adjustment"). Prior to Hurricane Katrina, the City accounted for PVU by imposing an annual take home use charge ("Take Home Use Charge") of \$600 on its employees until August 24, 2008. Thereafter, this amount was subsequently increased to \$1200 per year. The MIR indicated that in order to comply with the Code, the W-2 Adjustment policy must be implemented to address potential tax liabilities for the City and the affected employees with respect to PVU. Also, the City's automated fuel use system was partially destroyed by Hurricane Katrina, resulting in the City's use of a manual system until 2008. As the MIR indicated, there are resulting federal tax liabilities for the City and the affected employees relating to noncompliance of fuel use reporting relative to PFU ("Personal Fuel Use") as a taxable fringe benefit.

Due to the technical legal nature of the potential federal tax liability, the City Attorney's Office retained the law firm of Bryant Miller Olive ("BMO") to determine whether there was such liability and the extent of such liability. BMO has assisted us in the preparation of this response. The City Attorney with the assistance of BMO will work with the IRS to resolve any payment relating to such liability or any settlement relating thereto.

To date, the City has provided BMO with a significant portion of the data and is continuing to provide supplementary information necessary to accurately calculate the potential Federal tax liability. BMO is able to estimate the potential liability based upon the data received to date as indicated below.

Major Findings #1 and #2

- **Major Finding #1:** The City may owe additional Federal income taxes, interest and penalties for failure to report income of employees with a take-home vehicle.
- **Major Finding #2:** The City's employees may owe additional Federal income taxes, interest and penalties for failure to report income related to take home vehicles.

Response

With respect to major findings #1 and #2 we have determined that the City and affected employees may owe additional Federal income taxes, FICA taxes, interest and penalties for failure to report income related to take home vehicles. The potential tax liability falls into three categories: (1) Federal income taxes owed by the employee, (2) FICA taxes, 50% of which is owed by each of employer and employee, and (3) interest and penalties on such amounts. Of these amounts, normally the City would only be responsible for payment of 50% of FICA taxes. However, since the City underreported the income associated with PVU and PFU, to the extent that an employee does not pay federal income taxes on that amount as well as related FICA taxes, the IRS could hold the City liable for the payment of such taxes, and interest and penalties thereon.

For the period from 2006 to 2008, we believe that the combined estimated liability will be in the range of \$1,052,000 to \$1,400,000, with the following components:

<u>Estimated Taxes</u>	
Vehicle Fringe Benefit	1,906,426
Total Fuel Use	468,800
<u>Total Underreported</u>	
<u>Income</u>	<u>2,375,226</u>
Additional Income Tax (based on 29%)	688,816
FICA Tax (both Employer/Employee share)	<u>363,409</u>
Estimated Tax Liability	1,052,225

We have provided a range of estimated liability because we currently have actual data for 57% of employees with PVU from the period of 2006 to 2008, and for purposes of the estimates above, we have assumed that the remaining 43% of employees will have the same level of PVU and PFU. In addition, we have also estimated interest and penalties not to exceed \$250,000, for a maximum exposure of approximately \$1,400,000.

Again, please note that these are estimates of liability. The City is hopeful that this is the maximum liability for the City and its employees, and that a settlement can be negotiated with the IRS that will reduce this liability amount. Once we reach final agreement with the Internal Revenue Service, we will inform you of the results.