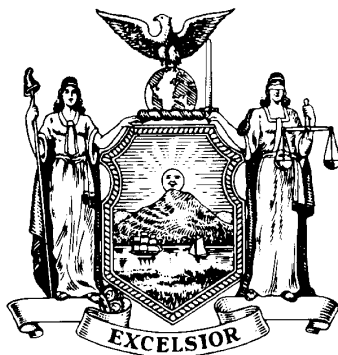


State of New York
Offices of the Inspector General



Investigation of the
New York State Department of Motor Vehicles
Political Subdivision Program

March 2021

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EXECUTIVE SUMMARY

Pursuant to New York State Executive Law Article 4-A, the Offices of the New York State Inspector General conducted a review of the New York State Department of Motor Vehicles (DMV) Political Subdivision Registration and License Plate program (Political Subdivision program).

The Political Subdivision program authorizes DMV to issue registrations and license plates to New York State political subdivisions.¹ Vehicles owned or controlled by a political subdivision and operated by its employees or designated agents must be “marked”—identifying their government affiliation. This important program, which requires marked license plates, more easily allows the public to detect if government assets are not being used for government business, abused, or misappropriated.

For example², in January 2020, the editorial board of a Buffalo newspaper reported on a western New York highway superintendent whose questionable use of a town-owned vehicle had come to its attention. According to the editorial, the highway superintendent had used the town-owned vehicle “after hours” and on weekends and the vehicle, which bears license plates identifying the town, had been observed by members of the public at a theater complex, golf course, restaurant, and a State park during a highway superintendent’s party. Following one such observation, the town board voted to bar the highway superintendent from using the town vehicle for 60 days. But for the license plates, which identify the political subdivision employing the vehicle’s operator, it is likely the highway superintendent’s possible wrongdoing would have gone unobserved.³

However, there are exemptions to this requirement authorizing the heads of political subdivisions as well as local law enforcement to obtain “unmarked” license plates.

¹ Political subdivisions are defined in New York State General Municipal Law § 100 as municipal corporations, school districts, district corporations, and boards of cooperative educational services (BOCES). DMV advised that it determines if an entity is eligible for PSD registration and plates based on criteria found in New York State Vehicle and Traffic Law §§ 321(1), 401(6)(b); New York State Tax Law § 1116; and DMV Commissioner’s Regulations Part 17.5. According to DMV, there are approximately 6,520 political subdivisions in New York State.

² Also see, <https://www.timesunion.com/news/article/Trooper-s-crash-leads-to-internal-probe-of-drug-13052380.php>; <https://ig.ny.gov/system/files/documents/2020/08/nyspdtf2245.030.2018-nyc.pdf>; <https://www.government-fleet.com/tags?tag=Vehicle+Misuse>; https://www1.nyc.gov/assets/doi/press-releases/2017/apr/14-DOCCars04-28-17withrpt_2.pdf, and <https://www.nytimes.com/2020/01/01/nyregion/ny-legislator-drunk-driving.html>.

³ This action was subsequently litigated in State Supreme Court, which found the town lacked authority to bar the highway superintendent from using the vehicle.

The Inspector General's review of DMV's administration of the Political Subdivision program from 2014 to the present, including the implementation of changes and its granting of exemptions during this period, identified deficiencies. Specifically, the review found that DMV approved unmarked license plates for political subdivisions that failed to meet exemption criteria, applied inconsistent approvals for exemptions, and failed to notify all stakeholders of procedural changes to the program. The review also found that DMV exemption forms contain overly broad language that fails to ensure the proper and more restrictive utilization of the program.

Additionally, the Inspector General's review found that following changes to the program in 2019, DMV began accepting signed exemption certifications from chiefs of police, sheriffs, and acting chiefs of police, contradicting the plain language of the certification; DMV has not adequately tracked the assignment of all license plates under this program and the bases for exemptions from the marked plate requirement; and DMV has not required political subdivisions to surrender old/unused license plates or have vehicles display registration stickers on vehicle windshields.

Given these findings and to strengthen the Political Subdivision program and prevent abuse of public assets, the Inspector General recommends that DMV require that all entities seeking exemptions from the marked plate requirement provide to DMV detailed written justification of the need for unmarked vehicle license plates and ensure that the justification is certified by the head of the political subdivision. Additionally, the Inspector General recommends that DMV require political subdivisions to surrender old/unused license plates and renew vehicle registrations every five years as control measures to monitor registrations and plates issued to these entities. Further, the Inspector General recommends that DMV consider requiring political subdivisions to display registration stickers on vehicle windshields to assist law enforcement in detecting improperly plated vehicles where a political subdivision plate may have been stolen or improperly transferred for use on a different vehicle. Also, the Inspector General recommends that DMV enhance its recordkeeping of the program for accountability, audit, and oversight purposes.

The review also found that DMV operates a separate program that provides local law enforcement agencies employing police and peace officers the opportunity to seek unmarked license plates. This program, run by DMV's Division of Field Investigation, maintains stricter controls than the Political Subdivision program. The Inspector General recommends that DMV

consider transferring the responsibility for the issuance of unmarked license plates for use by police and peace officers from the Political Subdivision program to the Division of Field Investigation. This transfer would ensure a more rigorous review of applicants, curtail abuse, and reduce confusion.

Lastly, as the review revealed that the public is often unaware of whom to report observations and allegations of misuse of government vehicles, the Inspector General recommends that DMV consider establishing a telephone hotline, email and/or website to report suspected misuse of a government vehicle operated by a New York State or municipality employee.⁴

Of note, during this review, DMV experienced a change in leadership. In June 2019, Mark J. F. Schroeder was confirmed as the new commissioner of DMV, and in October 2020, Leslie F. Brennan was appointed as DMV's executive deputy commissioner. DMV, which fully cooperated with the Inspector General's review and has examined its findings, has agreed to evaluate the oversight of the Political Subdivision program based on the Inspector General's recommendations.

BACKGROUND OF DMV'S POLITICAL SUBDIVISION REGISTRATION AND LICENSE PLATE PROGRAM

DMV provides vehicle registrations and license plates to federal, State, and local governmental entities under various programs. These include the Political Subdivision program, which is administered by DMV's Operations, Systems, Implementation & Development unit.

Prior to 2007, vehicles operated by New York State political subdivisions could, but were not required to, obtain Official license plates. At that time, individuals employed by political subdivisions were able to obtain Official license plates for government vehicles by merely completing the appropriate DMV forms at any regional office. Further, DMV had no requirement that a political subdivision certify that a vehicle would be used for a particular purpose or that a certification be signed by a particular member of a political subdivision. Also, DMV had no centralized system to account for registrations and license plates assigned to these entities.

⁴ Other states have established such reporting tools. For example, <https://www.dgs.ca.gov/OFAM/Services/Page-Content/Office-of-Fleet-and-Asset-Management-Services-List-Folder/Report-State-owned-Vehicle-Misuse>; and <https://www.dfa.arkansas.gov/administrative-services/vehicle-fleet-management/misuse-of-state-vehicle-report>.

In June 2007, the New York *Daily News* published two articles reporting that “Official” New York State license plates had been issued to a number of entities that were not political subdivisions, including the New York Public Library, Columbia University, a volunteer ambulance service, and several corporations providing search and rescue services. For example, the *Daily News* noted that the New York Public Library, a privately managed nonprofit corporation, operated 81 vehicles bearing Official plates. According to the articles, two such vehicles had been observed by the *Daily News* parked immediately beneath “No Standing” signs near the library’s main branch but neither car had been ticketed. Also according to the articles, DMV advised it would conduct an investigation of the matter, review the qualifications of the holders of the 154,000 Official license plates in circulation at that time, and require that they recertify their eligibility.

DMV advised the Inspector General that after investigating the issues raised by the *Daily News* articles, it created a new unit, the Government/Official Plate Certification Unit, which was tasked with promulgating procedures for the issuance of license plates under the Political Subdivision program. Additionally, DMV contacted some holders of Official plates and notified them that they were required to confirm their eligibility to receive such plates. Also, for the first time, DMV created a database of political subdivisions and assigned a unique identification code for each valid political subdivision. DMV concluded that approximately 152,500 Official license plates were registered with valid political subdivisions. For the holders of the 1,439 Official plates whose status was “unclear” or “likely ineligible,” which included some of the holders of the Official plates mentioned in the *Daily News* articles, DMV made efforts to contact these entities to verify their qualifications. Further, DMV established a toll-free telephone number for license plate surrender and eligibility inquiries.



Older-style “Official” License Plates

However, these reforms failed to address critical issues with the program. Specifically, there was no certification requirement for a political subdivision to obtain an Official license plate and applicants were not required to provide justification that a vehicle would be used for an official purpose.

DMV's 2014 and 2015 Changes to the Political Subdivision Program

In 2014, pursuant to a Governor's Office initiative to assist law enforcement in identifying the true registrants of vehicles operated by political subdivisions, increase transparency, curb the abuse of publicly-owned assets, and reduce the number of plates improperly assigned to these entities, DMV made substantial changes to its Political Subdivision program. Of major significance, DMV now required all political subdivision vehicles to display a marked license plate.



Examples of 2014 and Current Political Subdivision License Plates

In accordance with this change, DMV issued a newly designed plate, which contained the name of the political subdivision and county and replaced the former design, which only read "Official" and did not identify the political subdivision. Prior to the issuance of the new design, there was no observable way to associate a political subdivision plate with a particular political subdivision. With the issuance of this newly designed plate, law enforcement now had more information about registrants of vehicles.

According to DMV, in spring 2014, it undertook the following actions to implement the modified program:

- DMV notified all political subdivisions of this initiative, the new forms and procedures that it was implementing, and that previously issued license plates were no longer in compliance, must be surrendered and new plates identifying the political subdivision must be obtained;
- Mailed license plate replacement applications to all authorized political subdivisions which had vehicles then registered within their fleets; and

- Removed all (physical) older-style “Official” license plates from regional DMV offices and required new plates to be special ordered.

Applicants were advised that they would be required to complete a Vehicle Registration/Title Application form and a Political Subdivision Certification and Eligibility for Official Plates form. The purpose of these forms was to ensure that political subdivision marked plates were only being issued for and used on vehicles that were owned or controlled by the entity and operated by its employees or agents of the political subdivision in the course of their official duties.

DMV also introduced a new form for entities requesting exemptions from the plate marking requirement—the Request for Exemption from Use of Political Subdivision License Plates form (MV-655 2/15). According to this form, exemptions to the marked plate requirement would only be granted for the following reasons:

<input type="checkbox"/> The vehicle is assigned to the political subdivision's highest ranking elected official.
<input type="checkbox"/> The vehicle is normally used for law enforcement investigations or undercover investigations.
<input type="checkbox"/> The vehicle is not issued a standard sized plate, including ATVs, boats, motorcycles and snowmobiles.

The exemption form also contained a certification declaring that the vehicle is registered/controlled by the political subdivision and that the information reported in the form is true. This certification was required to be signed by “a duly appointed official who has been granted the authority to act on behalf of the above-named PSD.”⁵ After the initial certification, DMV did not require recertification of this exemption. DMV then began to issue to all State and political subdivisions the newly-designed license plates—both marked plates that identified the entity to which they were assigned and unmarked plates. Subsequently, DMV issued multiple letters to those entities that did not respond to its mailing. Those that failed to comply were removed from the political subdivision program and “holds” were placed on their registrations. By March 31, 2015, the older-styled plates were deemed void by DMV.

The changes initiated in 2014 strengthened the program and made it more difficult for those not eligible to obtain “Official” plates. However, other vulnerabilities remained. DMV still did not require political subdivisions to surrender old/unused license plates or display

⁵ DMV subsequently issued forms containing different iterations of the language of the exemptions and certifications. In its MV-655 form issued in January 2016, the second basis for exemption was revised to “used for law enforcement investigations or criminal investigative work,” and its July 2016 form added “primarily” to this exemption. The October 2017 MV-655 changed the signatory on the certification to “a duly appointed head official of the above-named PSD.” However, these changes did not address all vulnerabilities.

registration stickers on the windshields of their vehicles.⁶ Consequently, there is no observable way to associate a political subdivision plate with a particular vehicle, unlike with other plate classes. Marked plates that are stolen or improperly transferred for use on different vehicles may not be detected unless law enforcement accesses criminal justice systems to confirm that a plate is on an appropriate vehicle.

DMV's 2018 and 2019 Changes to the Political Subdivision Program

Starting in late 2018, in an effort to provide greater accountability, prevent the abuse of public assets, and strengthen the process through which unmarked plates are issued to political subdivisions, DMV began implementing additional changes to its Political Subdivision program. Specifically, DMV:

- Revised its exemption certification to require the signature of a political subdivision's highest-ranking publicly elected official;
- Required biennial recertification of exemption certifications;
- Reduced the number of reasons for exemptions; and
- Transferred the approval process for exemption requests from the DMV regional offices to the DMV Central Office in Albany.

Implementing these changes, however, was hampered by DMV's failure to notify all stakeholders of the changes and, most significantly, its inconsistent approval of exemption requirements.

On December 21, 2018, at the direction of DMV executives, DMV issued letters to the heads of some of New York State's political subdivisions—approximately 380 entities—advising them that DMV was reconciling its political subdivision vehicle registration database against vehicles currently in use and registered. The letters advised that effective January 4, 2019, the highest-ranking publicly elected official of each political subdivision would be required to certify that vehicles displaying unmarked plates would be assigned to them or primarily used for law enforcement or criminal investigative work.

Notably, this mailing to 380 political subdivisions represented only a small portion of all political subdivisions in New York State. The remaining 6,140 political subdivisions were not contacted by DMV at this time. In addition, although law enforcement entities utilize a large percentage of unmarked political subdivision license plates, they were not directly notified of

⁶ In fact, the only vehicles not required to display windshield registration stickers are officially-plated vehicles operated by political subdivisions and State agencies.

these changes. DMV executives advised the Inspector General that it had chosen to contact only the heads of municipalities since they would be the individuals required to sign the applications' certifications. However, the Inspector General found that DMV did not contact the heads of all municipalities.

Moreover, the decision to contact only the heads of certain municipalities contributed to confusion surrounding the changes to the program. Indeed, although they were not the direct recipients of the mailing, some law enforcement entities learned of the changes and later advised the Inspector General that they were confused by the notification. Some of these entities stated that they believed that another program administered by DMV's Division of Field Investigation, which provides unmarked plates to police and peace officer organizations, had ended or was no longer available to their organization, and they would instead be required to register their vehicles with the Political Subdivision program.

DMV once again issued a new form, which was intended to narrow the bases for exemptions and revised the language of the certification. The new form, issued on January 4, 2019⁷ and entitled Political Subdivision (PSD) Vehicle Registration/Title Application (MV-82PSD), included only two specific options for exemptions from the marked plate requirement:

The vehicle listed above qualifies for standard series license plates for the reason selected below (*please initial the applicable exception*):

_____ The vehicle is assigned to the political subdivision's highest ranking publicly elected official, or in the case where there is no elected official, is assigned to the highest level appointed officer.

_____ The vehicle is primarily used for law enforcement or criminal investigative work.

ATTENTION: Vehicles not used for one of the qualifying reasons above must be registered with political subdivision license plates that display the political subdivision name. If the primary use of the vehicle listed above changes and no longer qualifies for exemption, the vehicle must immediately be re-registered with political subdivision plates.

In addition, the certification, which was now made under penalty of perjury, reads:

I certify that the above-described vehicle is registered or controlled by the political subdivision to which this application for registration applies, and that the information contained herein is true and accurate. I so certify in my capacity as the highest level elected official of the political subdivision or, in the case where there is no elected official, as the highest level political subdivision appointed officer.

I understand that knowingly making a false statement on an application submitted to the Commissioner of Motor Vehicles is a misdemeanor under the Vehicle and Traffic Law, a misdemeanor or felony under New York State Penal Law, and may result in criminal prosecution in addition to revocation or suspension of the registration pursuant to regulations promulgated by the Commissioner of Motor Vehicles.

⁷ DMV subsequently revised this form. The options for exemptions from the marked plate requirement and certification remain the same.

Upon biannual renewal, DMV now requires that the highest-ranking publicly elected official/highest-level appointed officer again verify the appropriate use of the unmarked license plates by certifying the exemption. This is also true for subsequent renewals of unmarked license plates.

DMV reported to the Inspector General that its Operations, Systems, Implementation & Development unit initially vetted each application certification by confirming through internet searches and organizational charts that the signer was, in fact, the political subdivision's highest-ranking publicly elected official, or if none existed, the highest-level appointed officer.

However, soon after the new form was disseminated, DMV began to receive PSD applications for law enforcement vehicles associated with county sheriffs and municipal police departments, which were certified by the head of the respective law enforcement entity, not the political subdivision's highest-ranking publicly elected official/highest-level appointed officer. According to DMV, these applications were denied. Shortly thereafter, certain DMV executives revisited this decision, and, on January 10, 2019—contrary to the language of the certification—began to accept and approve applications when signed by the head of the respective law enforcement entity (sheriff, chief of police, and an acting chief of police). Despite this internal decision, DMV neglected to publicly communicate this change to law enforcement organizations or contact those law enforcement entities it had previously denied. Most significantly, DMV did not change the language of the form's certification. In fact, this form is still in use today and has not been updated to reflect DMV's internal policy change.

DMV's Division of Field Investigation's Program

A number of peace and police officer organizations advised the Inspector General that they were confused by the 2018 changes to the Political Subdivision program and believed that another DMV program, administered by DMV's Division of Field Investigation, had ended or was no longer available to their organization. Based on these representations, the Inspector General reviewed that program. This program, which authorizes the issuance of unmarked license plates to police and peace officer organizations, was established to assist these officers while working undercover operations and provide them additional safety and security. The program is run by a limited number of employees who carry federal security clearances.

Pursuant to a 1999 memorandum of understanding between DMV and the New York State Division of Criminal Justice Services (DCJS), police and peace officer organizations

seeking to obtain registrations and license plates under this program must initially submit a written request on official letterhead to DCJS to be validated as an appropriate party to participate in the program. DCJS first verifies that the entity is a valid police or peace organization and that the persons requesting participation are qualified criminal justice personnel. DCJS then telephonically contacts the applicant to confirm the type of registration and license plate sought, the entity's justification, and its legal authority as a police or peace officer organization. DCJS also receives confirmation from the applicant that the registration and plates will be used only by law enforcement personnel and not for personal use. A tracking form utilized to document this process must be approved by DCJS's Office of Legal Services and executive management. DCJS then advises DMV and the entity whether the entity is eligible for the Division of Field Investigation's program.

An approved entity must then submit a letter of request to DMV for vehicle registrations and unmarked license plates. This letter, which must be on the entity's letterhead, is required to contain a statement indicating that the vehicle registration and license plates will only be used for law enforcement purposes by police and/or peace officers under the entity's jurisdiction and that the vehicle will utilize E-ZPass. Currently, the letter must be signed by a designated point of contact at that entity. Accompanying this letter, applicants must submit to DMV a vehicle registration/title application and proof of ownership and insurance, among other information. If approved by DMV, unmarked license plates are then issued to these entities for specific vehicles. All are standard New York State license plates.

Law enforcement entities no longer having a need for these unmarked license plates are required to notify DMV in writing and request their vehicle registration information be removed from DMV's files. DMV further requires that entities include with this letter the surrendered registrations and license plates or a statement attesting that the plates have been destroyed. Violations of this notification and surrender/destruction procedure will result in suspension from the program for a 30-day period.

FINDINGS AND RECOMMENDATIONS

The Inspector General's review found deficiencies in the administration of the Political Subdivision program. Significantly, unmarked license plates are being used for unapproved purposes. The Inspector General contacted 22 law enforcement agencies that had vehicles displaying unmarked political subdivision license plates and found the following improper uses:

- A county official's vehicle received an unmarked license plate under the exemption for the political subdivision's highest-level official, when, in fact, the official was not the county's highest-level official and thus not entitled to the unmarked plate;
- The head of a county's Department of Public Works was assigned an unmarked vehicle license plate under the law enforcement exemption when that official is not the highest-level official in the political subdivision;
- A county sheriff advised the Inspector General that multiple vehicles certified for use by the sheriff's department for law enforcement purposes were actually being used for other purposes, including by civilians for maintenance and other non-law enforcement tasks; and,
- In 2019, DMV granted four exemptions under the highest-level elected official category to a single political subdivision. Based on the Inspector General's review, DMV could not show proof that it confirmed the eligibility of the four vehicles.

The Inspector General also found several examples of inconsistent approvals of exemptions. As described earlier in this report, on January 10, 2019, DMV, contrary to the language of the exemption form, began to approve exemptions signed by individuals other than a political subdivision's highest-level official, including sheriffs and chiefs of police. However, despite DMV's new policy, in multiple instances after January 10, 2019, several chiefs of police who signed exemption forms were denied. The Inspector General's review of 1,917 exemptions approved by DMV between January 4 and September 20, 2019, revealed that at least 972 (more than half) were certified by individuals other than the highest-ranking publicly elected official/highest-level appointed officer.⁸

The Inspector General also reviewed the database DMV relies on to track its Political Subdivision program and identified numerous deficiencies, including:

- Due to inconsistent naming conventions applied by regional DMV offices, DMV was unable to compile reliable statistics regarding the number of license plates registered through the Political Subdivision program. According to DMV's database, there were approximately 198,000 license plates registered through the program, yet nearly 30,000 lacked information needed to readily identify to which political subdivision the plates were assigned;
- DMV failed to record the specific user of the license plates and the basis for exemption. Namely, numerous license plates were shown to be registered to generic counties, towns, and cities as opposed to identifying specific agencies within subdivisions, making it impossible to capture essential data for analysis;

⁸ All but 18 of these 972 exemptions were signed by the head of a police/peace organization.

- DMV has not reconciled its database in more than a decade to ensure it is accurate and includes a record of all registered license plates. Indeed, the Inspector General discovered numerous unmarked license plates that were not accounted for in DMV's database; and
- DMV also has not updated its policies and procedures and forms for the political subdivision program to reflect current practice.

In light of the above findings and to promote transparency, prevent abuse of publicly owned assets, and for efficiency, the Inspector General recommends the following:

- DMV should comply with the certification requirements found in its Political Subdivision Vehicle Registration/Title Application form, which identifies those authorized to sign exemption certifications as a political subdivision's highest-level elected official or, where there is no such elected official, the highest-level appointed officer. DMV should also limit all requests for unmarked license plates solely to either the political subdivision's highest-ranking publicly elected official or highest-level appointed officer. DMV should also revise its forms to reflect this change and strengthen the certification language to convey that misuse of vehicles with unmarked plates could lead to enforcement actions;
- Due to past failures in communicating changes in the Political Subdivision program, DMV must ensure that all stakeholders are notified of subsequent program changes;
- DMV should improve its oversight of the Political Subdivision program by conducting periodic audits to ensure vehicles, particularly those with unmarked plates, are not being misused;
- DMV should enhance its political subdivision database to ensure that program data collected is accurate, uniform, and reliable. For example, DMV should implement drop-down boxes in its database to avoid inconsistent naming conventions;
- DMV should provide more guidance regarding the Political Subdivision program on its website and at regional offices and ensure staff are trained on all new policy changes;
- DMV should require political subdivisions to surrender old/unused license plates and renew vehicle registrations every five years as control measures to monitor registrations and plates issued to political subdivisions;
- To further enhance changes made to the program in 2018, DMV should explore the feasibility of requiring that vehicles operated by political subdivisions display windshield registration stickers to assist law enforcement in detecting improperly plated vehicles where a political subdivision plate may have been stolen or improperly transferred for use on a different vehicle;
- DMV should work with the New York State Department of State to ensure DMV's database of political subdivisions and the heads of those subdivisions is accurate and current; and,

- For consistency and accountability, DMV's Division of Field Investigation should administer all programs for entities seeking unmarked vehicle license plates for use by police and peace officers. This program will provide additional safety and security for these organizations and centralize their registration of vehicles. Additionally, this change will help prevent confusion among law enforcement organizations about which program they should register under. DMV should work with DCJS to ensure the proper implementation of this recommendation. Lastly, if this responsibility is transferred to the Division of Field Investigation, DMV must notify all agencies employing police and peace officers that their vehicles must now be registered in this program.
- Lastly, as the review revealed that the public is often unaware to whom to report observations and allegations of misuse of government vehicles, the Inspector General recommends that DMV consider establishing a telephone hotline, email and/or website to report suspected misuse of a government vehicle operated by a New York State or municipality employee.

During the Inspector General's review of the PSD program, DMV experienced a change in leadership. In June 2019, Mark J. F. Schroeder was confirmed as the new commissioner of DMV, and in October 2020, Leslie F. Brennan was appointed as DMV's executive deputy commissioner. DMV, which fully cooperated with the Inspector General's review and has examined its findings, has agreed to evaluate the oversight of the Political Subdivision program in light of the Inspector General's recommendations.