

State of New York
Office of the Inspector General



Investigation into the
Roosevelt Island Operating Corporation

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Inspector General

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EXECUTIVE SUMMARY

In March 2012, the Inspector General received a complaint alleging that Fernando Martinez, then Vice President of Operations for the Roosevelt Island Operating Corporation (RIOC), a state public benefit corporation, had hired two family members for managerial positions and had contracted with other family members for services for RIOC. The Inspector General's investigation revealed that Martinez hired a relative at RIOC and utilized a relative's company for RIOC projects in violation of state ethics policy and RIOC policy proscribing nepotism. The investigation further found that Martinez received kickbacks totaling over \$183,000 for hiring his friend's janitorial cleaning service. Following these discoveries, Martinez resigned his RIOC employment on December 6, 2012. In addition, Martinez was prosecuted by the New York County District Attorney's Office. On January 23, 2014, Martinez pleaded guilty to one count of offering a false instrument for filing in the first degree, a felony. On February 20, 2014, Martinez was sentenced to six months incarceration followed by a five-year term of probation. In addition, he was required to forfeit \$86,647.98.¹

In the course of investigating the allegations against Martinez, the Inspector General also found that RIOC former President/CEO Leslie Torres was consistently absent from RIOC's offices, abused RIOC's vehicle usage policy, and misused her state credit card and created an atmosphere that allowed other RIOC executives to also misuse their credit cards. Torres also improperly charged expenses to RIOC for her attendance at an out-of-state event unrelated to RIOC business. Torres resigned her RIOC employment effective September 21, 2012.

¹The forfeited amount represents the kickbacks from the Southpoint Park and office renovation projects, the projects which directly correlate to the false documentation to which he pleaded guilty.

The illegal activity and violations of state law and RIOC policy took place during the tenure of former Chief Financial Officer (“CFO”) Steven Chironis. As CFO, Chironis was charged with monitoring procurements at RIOC. Nevertheless, Chironis permitted Martinez to flout state procurement law and RIOC procurement policy, negligence which aided Martinez in effectuating his scheme. In addition, Chironis tacitly approved Torres’s misuse of her RIOC vehicle for personal purposes, and then mismanaged and miscalculated Torres taxable fringe benefit in violation of federal law and New York State policy. Chironis also permitted Torres to charge meals to her credit card, classifying them as “business expenses” in violation of RIOC policy. Indeed, he and Martinez engaged in the same misuse of their RIOC credit cards shortly after Torres began doing so. Chironis resigned his RIOC employment effective August 31, 2013.

Since May 2011, RIOC has not had an internal control officer, as required by the Public Authorities Law. That RIOC lacks an internal control officer to safeguard RIOC’s assets, check its accounting data, and ensure that RIOC is adhering to its own policies, specifically the credit card policy, indicates a serious lapse in management oversight and structure, and a consequential risk of significant breaches of the ethical and fiscal obligations of this state entity.

Former RIOC Vice President Martinez Engaged in Illegal and Unethical Conduct

Martinez’s Kickback Scheme

The Inspector General’s investigation revealed that Martinez and the owner and operator of Bright Cleaning Solutions, Javier Ramos, are longtime friends. Martinez testified to the Inspector General that when he began to experience financial difficulties, he approached Ramos about an arrangement whereby he would help Ramos obtain cleanup projects in exchange for a

monthly \$1,000 consulting fee and a portion of the projects' profits. This arrangement commenced prior to Martinez's employment at RIOC and continued throughout his tenure at RIOC until the scheme was uncovered by this investigation. In total, Martinez received over \$183,000 in illegal kickbacks from Bright Cleaning Solutions during his tenure at RIOC.

Martinez was able to effectuate his scheme because he and other RIOC executives failed to follow New York State procurement law and RIOC procurement policy. RIOC procurement policy, which is overseen by the chief financial officer, required RIOC to publish in the State Contract Reporter and competitively bid any procurement contract estimated at \$15,000 or more. Instead, Martinez and other RIOC executives improperly invoked exceptions to the competitive process that ostensibly permitted Martinez to select a vendor on a non-competitive basis. In this way, Martinez selected Bright Cleaning Solutions for what grew to be a large cleanup project at Roosevelt Island. As a result, Ramos received significant proceeds from this illegal scheme. After that project was completed, Bright Cleaning Solutions was chosen for other projects, further enriching Martinez through illegal kickbacks.

Martinez's Acts of Nepotism

The Inspector General's investigation also uncovered that Martinez hired one member of his family for a RIOC staff position and awarded RIOC contracts to another family member who provided services to RIOC as a vendor, in violation of state law and RIOC's anti-nepotism policy. Specifically, in the fall of 2007, Martinez was integrally involved in the hiring of his brother-in-law, Michael Smith, for the position of RIOC Parks and Recreation Manager. In addition, Martinez arranged for RIOC to utilize the printing services of Fuse Printing, a vendor owned and operated by another brother-in-law, Stuart Standard. Not only did Martinez fail to

reveal these relationships to anyone at RIOC as required by RIOC policy, he actively concealed them and participated in the hiring processes.

Former President/CEO Leslie Torres Abused her Position

Torres's Chronic Absenteeism

The Inspector General found that Torres often was absent from the office during regular business hours. It was rare for Torres to be in the office for an entire work week, and when she was present in the RIOC offices, she arrived late and left early. The investigation revealed that, following complaints from Roosevelt Island residents, Torres instructed an administrative assistant to turn on the lights in her office, which was visible from the street, to give the appearance that she was present. Indeed, one RIOC employee characterized Torres as an “absentee manager.”

Torres's Misuse of a RIOC Vehicle

This investigation also revealed that Torres routinely misused her state vehicle in violation of then RIOC Vehicle Use Policy,² which stated, “RIOC owned vehicles are never to be operated for personal use.” Torres admitted to the Inspector General that throughout her tenure at RIOC, she used the RIOC vehicle for personal use – to commute to and from work during the week and on weekends as her personal vehicle. In addition, Torres drove non-state employees, including her children, in the vehicle in violation of both RIOC and state policy.³

² In November 2013, new state vehicle use policy was issued that is binding on all New York State agencies and public authorities. On January 23, 2014, the RIOC Board voted to adopt the newly issued state vehicle use policy in its entirety.

³ Under both the old and new state vehicle use policies, children are not permitted to ride in a state vehicle.

CFO Chironis was derelict in his duties as chief financial officer, as an initial matter, by tacitly approving Torres's vehicle misuse. More significantly, however, Chironis failed to require Torres to maintain detailed vehicle logs to delineate business and personal use of the vehicle, and then compounded this error by incorrectly calculating the taxable fringe benefit of her personal use of the vehicle as required by federal law and New York State policy.⁴ The Inspector General is referring this matter to the New York State Department of Taxation and Finance for review and appropriate action.

Misuse of RIOC Credit Cards by Torres and Other Executives

When Torres assumed the presidency of RIOC, RIOC had an established credit card policy. Torres, however, disregarded the policy. She had a credit card issued to her in October 2010, charging significant sums she referred to as "business expenses" that were prohibited by RIOC's credit card policy. Specifically, RIOC's credit card policy states "RIOC's credit cards are to be used only for the acquisition of goods and services for business purpose mainly for emergencies and low cost purchase." [sic]

For her entire tenure, Torres charged expensive meals – with RIOC employees and non-RIOC employees – claiming them as business meetings in direct contravention of RIOC credit card policy.

The investigation revealed that Chironis also abused the RIOC credit card. Specifically, in October 2011, Chironis requested and received a RIOC credit card. Chironis immediately began to use the credit card inappropriately, charging expensive meals with RIOC staff; dining on four occasions with RIOC staff at a restaurant owned by his wife; and purchasing personal

⁴Current state vehicle use policy and RIOC vehicle use policy include the same requirement.

items and services. Despite reimbursing RIOC for the personal items and services, Chironis nevertheless violated RIOC credit card policy. Like Torres and Chironis, Martinez also improperly charged expensive meals to his RIOC credit card.

RIOC Controller Muneshwar Jagdharry admitted that his staff brought the expenses to his attention, but he nevertheless permitted the charges because the executives justified them as business. He explained that “he tried his best but it was hard to put his arms around people in those kinds of positions.” Chironis admitted that Jagdharry periodically informed him that certain RIOC credit card expenses were inappropriate. Chironis did nothing to stop these inappropriate charges. Instead, as noted, Chironis himself violated RIOC credit card policy.

Torres Charged Expenses to RIOC for a Trip that was Unrelated to RIOC business

On September 30, 2011, Torres traveled to Washington, D.C., to attend a portion of President Barack Obama’s month-long Hispanic Heritage Celebration. Torres charged the entire trip to her RIOC-issued credit card, claiming she attended the celebration as “a RIOC representative.” Notwithstanding, no evidence exists of any nexus between RIOC business and this event, and Torres offered none. When questioned by the Inspector General regarding the propriety of these charges, Torres declared, it was “a big honor to be invited.”

INTRODUCTION AND BACKGROUND

Mission and Structure of the Roosevelt Island Operating Corporation

The Roosevelt Island Operating Corporation was created in 1984 as a public benefit corporation to assume responsibility for the development and operation of the 147 acres comprising Roosevelt Island. RIOC's mission is to plan, design, develop, operate, maintain and manage Roosevelt Island. Currently, RIOC manages a mixed income community with approximately 12,000 – 14,000 residents, open public spaces, recreation facilities, and six New York City designated landmark buildings.

Because it is an island with limited access, Roosevelt Island requires the operation and maintenance of specialized infrastructure such as an aerial tramway, seawall, and a comprehensive garbage compacting system. RIOC supplements basic services provided by the City of New York, and provides specialized operations and capital improvements. A large part of RIOC's revenue is realized from lease payments by property developers. For example, in the fiscal year that ended on March 31, 2013, RIOC received approximately \$21 million in revenue from sources such as rent, transportation, and tramway proceeds. RIOC uses the revenue to fund its operating expenses.

Pursuant to its enabling legislation, RIOC is governed by a nine-member board of directors.⁵ The Commissioner of the New York State Division of Housing and Community Renewal, who serves as Chair, and the New York State Director of the Division of the Budget serve as *ex officio* board members. The remaining seven directors are nominated by the Governor with the advice and consent of the New York State Senate. Of these seven directors,

⁵ Unconsolidated Laws §6387.

two members are recommended by the Mayor of New York City, one of which must be a resident of Roosevelt Island. Four of the five remaining board members chosen by the Governor must be residents of Roosevelt Island.

For the period relevant to the instant investigation, Leslie Torres held the position of RIOC President/CEO,⁶ Fernando Martinez was Vice President of Operations,⁷ and Steven Chironis served as Vice President and Chief Financial Officer.⁸ Currently and during the pendency of this investigation, Donald D. Lewis has served as Vice President and General Counsel.⁹

New York State Procurement Law and RIOC Procurement Policy

The procurement of services and commodities by a New York State public benefit corporation, like RIOC, is generally governed by the New York State Economic Development Law and the Public Authorities Law.¹⁰ Article 4-C of the Economic Development Law mandates, among other requirements, the daily publication of procurement opportunities in the New York State Contract Reporter. According to guidelines set forth by the Office of the State Comptroller, the State Contract Reporter “is intended to ensure the integrity of the state procurement process by providing for regular, centralized public notice of state agency and public authority intentions to contract for goods and services in the amount of \$15,000 or more.” Section 143 of the Economic Development Law mandates that a state agency cannot award a

⁶ Torres resigned her RIOC employment effective September 21, 2012. Since May 13, 2013, Charlene M. Indelicato has been President and CEO.

⁷ Martinez resigned his RIOC employment on December 6, 2012.

⁸ Prior to his employment at RIOC, Chironis worked in both public and private accounting, as a financial advisor, and as CFO for a real estate development company. Chironis resigned his RIOC employment effective August 31, 2013.

⁹ Lewis was named Acting President of RIOC and served from September 21, 2012, the date of Leslie Torres’s resignation to May 13, 2013, when Indelicato assumed the position of RIOC President/CEO.

¹⁰ Procurement of services and commodities by state agencies, other than public authorities and public benefit corporations, is also governed by the State Finance Law.

procurement contract, defined at the time relevant to this investigation as “any written agreement entered into by an agency for the acquisition of goods, services, or construction of any kind in the actual or estimated amount of fifteen thousand dollars or more,”¹¹ unless a notice of a procurement contract opportunity has been published in the State Contract Reporter or unless such procurement contract is exempt pursuant to certain delineated exemptions.

In addition, section 2879 of the Public Authorities Law requires “Every public authority and public benefit corporation . . . [to] adopt by resolution comprehensive guidelines which detail the corporation’s operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.” Procurement contracts are defined within that section as “any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of five thousand dollars or more.” Section 2879 requires the implementation of policies and procedures consistent with the requirements of the Economic Development Law.¹²

RIOC procurement policy states, “As required by, and in accordance with Article four-c of the Economic Development Law, prior to awarding any Procurement Contract in the actual or estimated amount of \$15,000 or more . . . [RIOC] shall submit sufficient information to enable publication of the notices of procurement contract opportunities in the New York State Contract Reporter.” RIOC’s procurement policy announces that its procurement contracts are to be awarded to persons or firms “on a competitive basis to the maximum extent possible.”

¹¹ In 2012, legislation was enacted that raised the actual or estimated amount to fifty thousand dollars or more.

¹² Section 2879 also announces broad policy concerns to inform the procurement guidelines of any public benefit corporation and public authority, like promoting the participation by New York state business enterprises and New York state residents in procurement contracts and minority or women-owned business enterprises.

Nevertheless, RIOC policy describes certain instances when contracts may be awarded on a non-competitive basis.

Specifically, RIOC procurement policy lists the following exceptions to competitive bidding:

- (i) in the event an emergency, critical or other extraordinary circumstance exists which make competition impracticable or inappropriate;¹³
- (ii) only one source for the services is available;
- (iii) when legal services or other specialized services are required for which a certain person\firm's expertise is unique;
- (iv) continuation of existing services is desirable to provide continuity to the orderly development of a Corporation project;
- (v) where a person\firm has superior qualifications to perform the service at a cost that is determined to be fair and reasonable; or
- (vi) where information is obtained which indicates that persons\irms which were invited to submit proposals are not qualified, responsive or responsible based upon the appropriate criteria for the project.

RIOC's policy also designates the chief financial officer as responsible for monitoring compliance with the procurement guidelines.

Notably, contrary to the directive of section 2879 of the Public Authorities Law to create "comprehensive guidelines which detail the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts," RIOC's procurement policy lacks detailed instructions as to how to engage in procurements of varying monetary levels. Rather, it speaks in general terms and essentially mirrors the language of the Public Authorities Law and the Economic Development Law.

¹³ Although "emergency" is not defined in Article 4-C of the Economic Development Law, Article 11 of the State Finance Law, the section detailing State Purchasing, defines "Emergency" as "an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk."

Despite a lack of comprehensive guidelines, RIOC employs certain procurement procedures which are overseen by Purchasing Manager Rudolph Rajaballey. Rajaballey explained that when a request for proposals is advertised in the State Contract Reporter, the sealed bids are submitted to him. The bids are then evaluated on a rate and ranking form. Once a vendor is selected, if the proposal falls below \$50,000, a purchasing order is drafted for approval by the CFO and President/CEO. If the proposal exceeded \$50,000, RIOC Board approval is required. In addition, if a RIOC department requires services that a manager or supervisor deems to be within a delineated exception obviating submission to the State Contract Reporter, Rajaballey requires a written justification for the exception. That justification would be included in any subsequent purchasing order for review and approval by the CFO and President/CEO, or in a presentation to the RIOC Board.

RIOC VICE PRESIDENT OF OPERATIONS FERNANDO MARTINEZ RECEIVED KICKBACKS AND ENGAGED IN NEPOTISM

Fernando Martinez commenced employment as RIOC's Vice President of Operations in May 2007. As RIOC Vice President of Operations, Martinez's responsibilities included the direct supervision of six departments of RIOC: Information Technology, Transportation, Public Safety, Engineering, Community Relations and Parks and Recreation.

Martinez's Kickback Scheme with Bright Cleaning Solutions

The Inspector General's investigation revealed that Martinez and the owner and operator of Bright Cleaning Solutions, Javier Ramos, are longtime friends. Martinez testified to the Inspector General that when he began to experience financial difficulties, he approached Ramos about an arrangement whereby he would help Ramos obtain cleanup projects in exchange for a monthly \$1,000 consulting fee and a portion of the projects' profits. Ramos made these

payments to Martinez in various ways: he usually drafted a check to a shell company that Martinez had created to receive these illicit funds; on numerous occasions, he wrote checks to Martinez's wife;¹⁴ and in other instances, he withdrew cash and deposited it into Martinez's personal bank account. This arrangement commenced prior to Martinez's employment at RIOC and continued throughout Martinez's tenure at RIOC until the scheme was uncovered by this investigation.

Cleanup at Roosevelt Island's Southpoint Park

In 2005, RIOC and the Trust for Public Land, a national nonprofit organization that conserves land for use as parks, gardens, historic sites, rural lands, and other natural places, finalized a plan to convert a seven-acre portion of Roosevelt Island into a recreation area to be called Southpoint Park. As the area had been used as a dumpsite for garbage, building, and demolition waste, extensive cleanup was required. In 2008, RIOC commenced a process to solicit bids for the cleanup of the area designated as Southpoint Park. Martinez managed the procurement process for this cleanup project. As will be demonstrated below, Martinez committed criminal acts as well as violated state procurement law and RIOC procurement policy for his own benefit and the benefit of Ramos, owner of Bright Cleaning Solutions. Significantly, Martinez and other executive management at RIOC failed to abide by state procurement law, which allowed Martinez to reap illegal proceeds from a longtime kickback scheme with Ramos.

As the cleanup project at Southpoint Park was projected to cost more than \$15,000, advertisement in the State Contract Reporter was mandated. As an initial matter, it was unusual that Martinez would task himself with the procurement for services for the cleanup of Southpoint

¹⁴ Martinez denied that his wife was involved in the scheme.

Park. Rather, the procurement should have been run by RIOC's Purchasing Manager, Rajaballey. Nevertheless, Martinez took it upon himself not only to run the procurement, but also to declare the project an emergency, a status that when properly invoked, eliminates the requirement of advertising the procurement in the State Contract Reporter. Rajaballey testified that the Trust for Public Land wanted the cleanup expedited, and former RIOC CEO/President Stephen Shane in his testimony explained that he agreed with the decision to invoke the emergency exception. Notwithstanding, the plan to develop Southpoint Park had commenced three years earlier, and prior use of the site as a dump was known to RIOC, circumstances that undermine the assertion that an "emergency" existed. Furthermore, publication in the State Contract Reporter of the Southpoint Park cleanup procurement – a procurement of limited scope and monetary level – would not have greatly extended the procurement process. Therefore, any desire on the part of the Trust for Public Land to expedite the cleanup did not provide a reasonable basis to invoke the emergency exception and exempt the procurement from competitive bidding. Moreover, Martinez's proposal should have been questioned by Chief Financial Officer Chironis, who was responsible for ensuring that procurements were properly conducted. However, the procurement proceeded without objection or meaningful scrutiny from other RIOC executives.

With this purported emergency status, Martinez was able to contact two bidders, and use this information to underbid the other contractors to ensure that Bright Cleaning Solutions was awarded the contract.

In a November 13, 2008 memorandum, Martinez advised then RIOC President/CEO Shane:

Given the need to expedite the clean-up in order to maintain the project schedule and deliverables, I recommended going to an outside contractor. The following contractors were contacted and their respective bids were received:

| Contractor | Bid |
|-------------------|------------|
| BCS, LLC | \$43,500 |
| <i>Redacted</i> | \$44,680 |
| <i>Redacted</i> | \$50,000 |

Based on the bid price, Bright Cleaning Solutions (“BCS LLC” in Martinez’s memorandum) was selected to perform the work. This contract was approved in November 2008 by Chironis and Shane, both of whom were aware that the project had been given “emergency” status and had not been advertised in the State Contract Reporter.

Soon thereafter, in December 2008, Ramos requested an additional \$6,500 for Bright Cleaning Solution’s work under the contract with RIOC. According to documentation maintained by RIOC, the cleanup had uncovered a large number of household, non-biodegradable materials at the site such as mattresses, carpets and plastics, which required larger equipment and more disposal containers than anticipated. RIOC approved a \$6,500 “change order,” or modification to the original contract for services, for the additional work.

In addition to the change order, Martinez and Shane acted to redefine and vastly expand the scope of the project, but chose, in violation of state procurement law and RIOC policy, not to solicit new bids. As a result, Martinez ensured that Ramos’s firm retained the much more lucrative contract. Because presidential and board approval was required for this large-scale project, Martinez drafted a memorandum, dated December 2, 2008, describing the scope of the new project and justifying the continued use of Bright Cleaning Solutions. Martinez wrote:

On November 11, 2008, an outside contractor (BCS, LLC) was engaged because of environmentally sensitive materials located at the site, and as of today the work is complete . . . Since the shoreline is not part of the park design, any clean-up associated with the shoreline was not addressed. However, upon a site inspection, I recommend that we expand the project scope to include a shoreline, and to continue with [Bright Cleaning Solutions] to complete the clean-up of the entire site . . . BCS is already mobilized with its equipment and will be able to promptly proceed. The cost to address the additional areas is estimated to be \$210,000.

This \$210,000 project was not submitted to the State Contract Reporter, nor was it competitively bid. Furthermore, not only did the non-competitive contract receive approval from CFO Chironis, but he actively participated in negotiating the price with Bright Cleaning Solutions. Written on the “Purchase Order Checklist,” a form used by RIOC to document certain procurement requirements, in response to the question “Was Price Negotiated” is “Yes – original estimate of \$300,000 reduce to \$210,000 with provisions.” Under the notation is Chironis’s signature.

The Purchase Order Checklist also delineates six acceptable waivers. On the form, Martinez invoked the “continuation of existing services” waiver and wrote “see attached justification,” referring to the December 2, 2008 memorandum quoted above. Then, Chironis invoked the “emergency” waiver and wrote “time of the essence – outside park areas. Boundaries must be cleaned before park construction could commence.” He again signed his name under his notation. Neither waiver was appropriate for this project: the need for the boundaries to be cleaned before the park construction could commence does not meet the definition of “emergency, critical or other extraordinary circumstances” exemptions in RIOC’s procurement policy; and an entirely different project of such magnitude does not justify a waiver for continuation of existing services.

Shane approved the proposal on December 4, 2008. As the revised estimate exceeded the \$50,000 threshold, approval by the RIOC board was required. Shane presented the proposal to the board on January 15, 2009. Of note, the board minutes reflect that “Mr. Shane noted that there was a lot of debris at the sections of the Southpoint Park which lie immediately outside of the Trust for Public Land’s project area. According to Mr. Shane, seeing the logic in beautifying the entire site at once, RIOC undertook the clean-up of those areas.” The board unanimously approved the project, which was completed in May 2009.

In total, over the entirety of the Southpoint Park cleanup project, RIOC paid Bright Cleaning Solutions approximately \$252,500. The Inspector General’s investigation revealed that as part of their prearranged scheme, Ramos paid Martinez more than \$74,000 in kickbacks for obtaining the contract for the Southpoint Park cleanup project. Documents and testimony indicate that Ramos paid Martinez both the pre-arranged monthly payments of \$1,000 and a significant percentage of the profit of the \$252,500 project. For example, the investigation revealed cash withdrawals and checks written from Ramos’s business bank account in amounts of \$10,500, \$7,500, \$9,500, \$11,300, and \$9,420, in addition to others, with the same amounts deposited into the shell company or into Martinez’s personal bank account.

Other RIOC Projects by Bright Cleaning Solutions

In August 2010, Leslie Torres became President and CEO of RIOC. When she arrived, Torres requested that her office be enlarged to accommodate a conference table. In a September 20, 2010 memorandum outlining the project to Rajaballey and copying Chironis, Martinez, Torres and RIOC’s Director of Engineering, the Assistant Project Manager claimed that “time is of the essence” because completing the project while Torres and others would be on vacation

was seen as most practical. Specifically, the Assistant Project Manager wrote, “Since time was of the essence due to the President and other staff members on vacation RIOC was unable to Solicitant [sic] this project to the public, ultimately the engineering department requested multiple bids from previous contractors that had performed work or bided [sic] on RIOC’s previous projects.” It appears that no one at RIOC questioned this basis for invoking the emergency waiver to exempt RIOC from competitively bidding this project. In fact, Martinez and Torres approved the project and procurement method, as indicated by their initials on the memorandum.

By again granting the project emergency status, RIOC evaded the requirement to solicit competitive bids through the State Contract Reporter. Instead, RIOC solicited six bids from known vendors, including Bright Cleaning Solutions, which, in addition to cleaning work, also engaged in minor construction projects. Bright Cleaning Solutions and another company submitted the lowest bid, \$22,500, but RIOC selected Bright Cleaning Solutions, because it was certified with the State of New York as a minority-owned company. However, documentation shows that Martinez was part of the solicitation and approval process, and on October 7, 2010, following completion of the project, RIOC paid Bright Cleaning Solutions \$23,687.72.¹⁵ As with the Southpoint Park project, the Inspector General uncovered that Ramos paid kickbacks to Martinez for obtaining the office construction contract, in the form of \$1,000 payments to Martinez on August 10, September 10, and October 10, 2010, and \$9,390.51 on October 12, 2010.

¹⁵ Bright Cleaning Solutions was paid more than the agreed upon \$22,500 because of incidental expenses not initially anticipated.

Bright Cleaning Solutions was chosen for another RIOC project as well. On July 15, 2011, RIOC submitted a Request for Proposals to the Contract Reporter for cleaning services for its Motorgate Garage Atrium. Bids were returnable to Rajaballey. Bright Cleaning Solutions and two other firms responded. Although Bright Cleaning Solutions' bid of \$40,000 was \$500 higher than the lowest bidder, RIOC once again selected Ramos's firm. A September 9, 2011 memorandum from Rajaballey to Chironis and Martinez detailing the vendor selection process stated: "After conducting due diligence, rate and ranking evaluations, Bright Cleaning Solutions LLC, a Minority Owned Business Company was selected for their [sic] competitive pricing, and prior experience working with Roosevelt Island as one of the evaluation criteria requested in the Request for Proposal." While proper procurement procedures were followed in this instance, the selection of Bright Cleaning Solutions was predicated on its prior experience at RIOC, which was orchestrated by Martinez in furtherance of his kickback scheme. In addition, even though Martinez was not involved in choosing Bright Cleaning Solutions for this project, he still improperly benefited through kickbacks of approximately \$9,500 paid to him by Ramos.

While there were two other projects at RIOC in which bids were solicited and Bright Cleaning Solutions submitted a bid but was not chosen as the vendor, this investigation revealed that Martinez fostered the relationship between Bright Cleaning Solutions and RIOC in order to illegally enrich himself and which resulted in improperly procured services for Bright Cleaning Solutions. As noted earlier, during his tenure at RIOC, Martinez realized over \$183,000 in kickbacks from Ramos.

Martinez's Acts Of Nepotism At RIOC

The Inspector General's investigation also revealed that Martinez hired one member of his family for a RIOC staff position and awarded RIOC contracts to another family member who provided services to RIOC as a vendor, in violation of state law and RIOC policy.

New York State Law and RIOC Policy Regarding Conflicts of Interest and Nepotism

By statute, RIOC is a "state agency" and its officers and employees are "state officers" required to follow the ethics laws delineated in the New York State Public Officers Law. Public Officers Law §73 provides, in relevant part:

14. (a) No statewide elected official, state officer, or employee, member of the legislature or legislative employee may participate in any decision to hire, promote, discipline or discharge a relative¹⁶ for any compensated position at, for or within any state agency, public authority or the legislature.

The ethics laws are designed to prevent not only actual conflicts of interest, but to dispel even the appearance of such conflicts: "These standards attempt to assure the public's confidence in State officers and employees as they discharge their official duties. A public servant's action and affiliations must be above reproach, even if no actual conflict of interest is present. Any associations that give rise to the suspicion of favoritism, self-dealing or personal private gain by State officers shake the public's confidence."

In addition to the Public Officers Law, RIOC also has adopted a strict anti-nepotism policy. According to the RIOC Employee Handbook:

¹⁶ The statute defines "relative" as "any person living in the same household as the individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant."

No employee or officer of the Corporation may take part in any hiring or employment decision relating to a family member.¹⁷ If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussion or decisions relating to the matter.

No employee or officers of the Corporation may take part in any contracting decision: (i) relating to a family member; or (ii) relating to an entity in which a family member is an officer, director or partner; or in which a family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions and decisions relating to the matter.

This policy was in effect in the fall of 2007, when Martinez was integrally involved in the hiring of his brother-in-law, Michael Smith,¹⁸ and when he arranged for RIOC to utilize the printing services of Fuse Printing, a vendor owned and operated by another brother-in-law, Stuart Standard.¹⁹ Not only did Martinez not reveal these relationships to anyone at RIOC as required by RIOC policy, he actively concealed them and participated in the hiring processes.

Martinez Employs His Brother-in-Law

After assuming the position of Vice President of Operations in May 2007, Martinez engaged in some management restructuring at RIOC. One measure he took was to create the position of Parks and Recreation Manager “responsible for the daily management, operation, coordination of parks, special events, film shoots, sports facilities, fields, recreation and athletic programs.” The Parks and Recreation Manager would report directly to Martinez. The position was posted on the employment site “Monster.com,” and over 75 individuals applied. Listed as minimum requirements were “1) Preferred 4-year degree in management or public administration or experience equivalent to a 4-year degree; 2) Minimum of five years of

¹⁷The term “family member” is defined in RIOC policy as “any person living in the same household as the employee, and any person related to the employee within the third degree of consanguinity or affinity.”

¹⁸Smith is married to Martinez’s sister.

¹⁹Standard is Martinez’s wife’s brother.

management or supervisory experience; and 3) Estimating, scheduling, budgeting, supervision, financial reporting, customer/client relationship, interpersonal skills, and computer skills.” As demonstrated below, Smith, who commenced employment as Parks and Recreation Manager in January 2008, fell far short of meeting these minimal requirements. However, Smith testified that, at the suggestion of Martinez, he fabricated portions of his resume to make it appear that he met these requirements.

In addition to submitting a false resume, Smith also completed a RIOC Application for Employment in which he reiterated the false information listed on his resume. The application also asked how he had learned of the opening. Smith wrote, “By a friend/Website,” obfuscating the fact that his brother-in-law Martinez had directly informed him of the position and recommended he apply. The application then specifically inquired, “Do you have any relatives who are employed by this organization?” Smith falsely responded, “No.”²⁰ When questioned by the Inspector General about this obvious falsehood, Smith stated that Martinez “coached” him to write “No” in answer to that question. Martinez denied helping Smith complete the application, although he conceded that he was aware that Smith had not completed four years of college as both his resume and application indicated. Furthermore, Smith claimed prior work experience as a “Convention and Special Events Coordinator” for the Marriott Corporation. In fact, as Smith admitted in his testimony to the Inspector General, he was merely a supervisor in the “package room.” Notably, at the end of the application, Smith certified the veracity of the information he provided.

²⁰ Smith’s application appears to violate New York State Penal Law §175.35, Offering a false instrument for filing in the first degree, a felony. However, prosecution is barred as beyond the five-year statute of limitations.

Although RIOC listed the job opening on an employment website, the process that was followed in hiring the Parks and Recreation Manager was atypical, according to Director of Human Resources Claudia McDade, who is generally responsible for hiring RIOC employees. McDade explained that, normally, she would conduct the interviews for this level position, and in fact, interviewed at least two other candidates for Parks and Recreation Manager, both of whom she deemed qualified, but she did not even interview Smith. Rather, McDade testified that she arrived at work one day and found Smith's resume on her desk with a notation to hire him as Parks and Recreation Manager. When questioned about this notation, Martinez claimed to the Inspector General that recruiting candidates was "difficult." This assertion by Martinez is contradicted not only by the fact that numerous individuals had applied for the position, but also by the fact that, in addition to Smith, RIOC interviewed two applicants whom McDade characterized as viable candidates for the position.

Surprised at this deviation from protocol, McDade stated that she approached then President/CEO Shane who informed her that he and Martinez had interviewed Smith and wanted to offer him the position. Shane, however, advised the Inspector General that he had no recollection of interviewing Smith. Instead, he recalled that Martinez had recommended Smith, who appeared qualified for the position. Martinez claimed to the Inspector General that he informed Shane of his relationship with Smith and that Shane nevertheless allowed Smith to apply for the position. Shane, however, denied that Martinez ever divulged to him his familial relationship with Smith. Shane further noted that given the Public Officers Law and RIOC policy proscriptions against nepotism, he would have expected Martinez to reveal the relationship. Martinez asserted to the Inspector General that he believed that the relationship was not a problem because Smith was not a blood relative. Notwithstanding this assertion, the

spouse of a sibling falls within the definition of “relative” in the Public Officers Law and within the definition of “family member” in RIOC policy.

Furthermore, McDade and Chironis testified that shortly after Smith had been hired, they had a conversation with Shane about rumors that Smith was related to Martinez. According to McDade and Chironis, Shane told them that he had confronted Martinez about the rumors and directly inquired if he and Smith were related. McDade and Chironis both stated that Shane told them that Martinez had denied any familial relationship and that he took Martinez at his word. Shane testified that he had no recollection of ever having a conversation with Martinez about a familial relationship with Smith.

As soon as Smith assumed the position of Parks and Recreation Manager, he was perceived by a number of RIOC employees as unqualified for the job. One RIOC employee reported to the Inspector General instances where Martinez appeared to be assisting Smith with his job duties and rectifying problems that he had caused. The employee testified that she did not understand why Martinez covered for Smith’s shortcomings until one day when Martinez brought his children to the RIOC executive offices and she overheard the children call Smith “Uncle Mike.” Notwithstanding, because Martinez was Vice President of Operations, she did not believe that anything could be done.

However, in April 2012 Torres received a complaint that Smith is Martinez’s brother-in-law. She asked RIOC General Counsel Lewis to investigate, and he informed her that the allegation was true. Torres testified that she then confronted Martinez, who admitted that he and Smith are brothers-in-law, that he had recommended Smith for the job, and that Shane had hired Smith. According to Torres, Martinez represented to her that Shane had known of the

relationship and approved the reporting structure – a representation denied by Shane. Torres testified she was “shocked” that Martinez was supervising a relative and, as a result, changed Smith’s reporting to Chironis and the Finance Department. Notwithstanding Torres’s assertion, Director of Human Resources McDade testified that, in fact, Torres intended to maintain the status quo and permit Smith to continue to report to Martinez. According to McDade, it was only after she informed Torres that a relative cannot directly report to another relative that Torres changed the reporting structure. Chironis testified that until the reporting structure was modified so that Smith reported to him, he had no knowledge of the familial relationship between Martinez and Smith except for the rumors that he had heard shortly after Smith’s hire.

Fuse Printing

Martinez also testified to the Inspector General that he arranged for RIOC to enter into contracts with Fuse Printing, a vendor owned by Stuart Standard, the brother of Martinez’s wife. Nevertheless, Martinez concealed his familial relationship with that company.

RIOC began to use Fuse Printing in July 2007, shortly after Martinez commenced employment at RIOC. A RIOC employee who was in a position to evaluate Fuse Printing’s services testified that Fuse Printing provided poor service to RIOC, including late or non-delivery of goods and services, in addition to charging prices that were significantly higher than those of competing vendors. According to the employee, when she complained about this vendor and attempted to terminate its services, Martinez insisted that RIOC continue to conduct business with Fuse Printing. The employee recalled a particular instance in June 2011 when RIOC contracted with Fuse Printing to provide a product for a special event, which Fuse Printing proceeded to deliver two days after the event. The employee did not want to pay Fuse Printing

for failing to meet the terms of the contract. However, she testified that Martinez instructed her to pay Fuse Printing half of the invoice amount. In fact, unbeknownst to the employee, Fuse Printing was paid the full amount of the invoice. After this incident, the employee insisted that RIOC cease utilizing Fuse Printing's services. Nevertheless, she later learned that Martinez had instructed a RIOC employee from the maintenance department to use Fuse Printing once again. The employee, having learned that RIOC was considering using Fuse Printing again, recommended two other vendors. When the employee inquired at a later time as to which vendor the maintenance department employee selected, he informed her that Martinez had said to use Fuse Printing because it is a minority-owned company. Ultimately, Fuse Printing was selected.

When confronted with this apparent violation of RIOC policy,²¹ Martinez testified that he was aware of the prohibition regarding participating in any way with contracting with vendors with whom a RIOC employee has a familial relationship, but claimed he could not recall if the policies applied to "small" vendors. Although Fuse no longer provides services to RIOC, the Inspector General determined that from August 2007 until January 2011, RIOC paid 46 invoices from Fuse Printing totaling over \$83,000 for printing services.

THE INSPECTOR GENERAL DETERMINED THAT FORMER RIOC PRESIDENT/CEO LESLIE TORRES ABUSED HER POSITION

In August 2010, Leslie Torres commenced employment as RIOC President and Chief Executive Officer. According to RIOC's by-laws, the President/CEO is responsible "for the discharge of the executive and administrative functions and powers of the Corporation," and for "supervising and controlling the business and affairs of the Corporation." These responsibilities

²¹ Martinez's involvement in the hiring of his wife's brother does not appear to violate the Public Officers Law, but it does appear to violate RIOC's policy against nepotism.

include overseeing a staff of approximately 125 employees who manage and operate Roosevelt Island. In addition, Torres, in conjunction with her staff and the RIOC Board of Directors, was charged with working with the city, state and federal governments to guarantee that all projects related to Roosevelt Island were responsibly managed. This investigation uncovered that Torres was derelict in these duties. Specifically, she was consistently absent from RIOC's offices, abused RIOC's then vehicle usage policy, and misused her state credit card and created an atmosphere that allowed other RIOC executives to also misuse their credit cards. Torres also attended an out-of-state event unrelated to RIOC business that she improperly charged to RIOC.

Torres's Poor Management and Lack of Engagement

RIOC policy requires "the Chief Executive Officer and each member of Senior Management [to be] available at all times during regular business hours at the offices of the Corporation, except when absent in connection with the business of the Corporation or on vacation or leave." As such, the President is expected to be accessible to the residents of Roosevelt Island and to be physically located in the RIOC offices absent a business-related reason for not being there. In fact, when asked by the Inspector General to describe her duties and responsibilities, Torres stated that in many ways, being President was "like being a mini-Mayor of a town," in part, because of the many issues that required attention on a daily basis.

Notwithstanding that characterization and the delineated duties, this investigation revealed that Torres was chronically absent from the RIOC offices. According to the testimony of several RIOC employees, Torres often was absent from the office during regular business hours. One employee testified: "[i]t was kind of like . . . we didn't have a president in a sense because we would never see her in the office." According to this employee, it was "very rare"

for Torres to be in the office for an entire work week. “She would come in at a late time, and she would leave before everyone else, of course.” Another RIOC employee characterized Torres as an “absentee manager.”

Initially, when queried by the Inspector General regarding her working hours, Torres testified to being present at the RIOC offices “every day” generally from “9:30 to 5:30.” Asked if she worked 37.5 hours per week, Torres declared, “absolutely.”²² However, when pressed, Torres admitted that she was “less likely” to be physically present at her office on Roosevelt Island. Torres claimed that she often worked from home, which was not located on Roosevelt Island. The RIOC Employee Manual however, contains no provisions regarding “telecommuting” or working from home. She asserted that she notified Martinez, her subordinate, when she was working from home. Notably, no other RIOC employee works from home, and approximately four years before Torres commenced employment at RIOC, RIOC denied permission to an attorney who had sought to do so.

Torres’s absenteeism was also noted by Roosevelt Island residents because the windows of Torres’s office at 591 Main Street are visible to passersby. A RIOC employee testified that, following complaints from residents, Torres instructed an administrative assistant to turn on the lights in her office to give the appearance that she was present. When confronted with this testimony by the Inspector General, Torres admitted that she had asked the administrative assistant to do so. However, she qualified her response, claiming that her motivation was not to give the appearance that she was present but rather that RIOC should appear open for business. Torres asserted:

²² Torres routinely submitted bi-weekly time records and recorded that she worked a standard five-day workweek and a seven-hour workday.

No, it wasn't to make it appear that I was there. It's just that the office is alive and you know when you walk by you see into all the offices and I think it's important that all the lights be on so the office looks open when people walk by even if I'm not in the office. If I'm off-site, just so that it's open, you know, for business.

In light of Torres's chronic absenteeism and the numerous complaints by residents, Torres's response strains credulity.

Even when Torres was present in the RIOC offices, she was not engaged with staff and residents. Torres was described by more than one member of the RIOC staff as having a "hands off policy" towards the staff. As a result, Vice President of Operations Martinez and Chief Financial Officer Chironis conducted many meetings that Torres should have directed. In fact, Torres discontinued weekly executive management meetings. Martinez testified that he discussed with Torres her lack of engagement, and Chironis stated that he believed that board members had confronted Torres about her absences from various meetings and their inability to discuss issues with her. Torres failed to change her behavior even after these discussions.

Furthermore, this investigation found that even when she was physically present, some RIOC employees testified that Torres had a "closed door" policy, refused to meet with residents, and did not "want to deal with the public at all." When residents came to the executive offices to express their concerns or have their grievances addressed, Torres had the residents directed to other staff members. Indeed, one RIOC employee recalled Torres attending only three meetings with residents during her entire two-year tenure. The residents frequently complained about their lack of access to Torres.

When questioned about her conduct, Torres replied that from the beginning, she knew the job was not "a good fit" for her. She testified that she "tried to get transferred out" and find a

new position, but in the meantime tried to “rise to the occasion.” The testimony of several RIOC employees belies this claim, however, as they described a manager who lacked engagement, who was “extremely uninvolved,” and who was “never there.”

Torres Violated RIOC Policy Regarding Use of the State Vehicle

This investigation revealed that Torres routinely misused her state vehicle in violation of then RIOC Vehicle Use Policy. In November 2013, a new state vehicle use policy was issued that is binding on all New York State agencies and public authorities. On January 23, 2014, the RIOC Board voted to adopt the newly issued state vehicle use policy in its entirety.

RIOC Vehicle Use Policy in Effect During Torres’s Tenure

RIOC’s Vehicle Use Policy in effect during Torres’s tenure stated, “The general purpose of this Policy is to manage and control vehicles which are owned and insured by RIOC. RIOC owned vehicles are never to be operated for personal use.” The policy also proscribed, “RIOC vehicles should never be taken off Roosevelt Island unless done so in conjunction with the performance of job duties.” In addition, under a section entitled, “Authorized Users,” the policy mandated, “It is the Policy of RIOC that any employee, designated agent, contractor or sub-contractor who holds a valid Drivers License [sic], may operate a RIOC owned vehicle while conducting business for RIOC, or while on travel status for RIOC. Use of RIOC owned vehicles should never be abused or regarded as a privilege.”

Then RIOC Vehicle Use Policy identified who may travel in RIOC vehicles, specifically: “RIOC employees; A non-RIOC employee who is an agent, contractor or sub-contractor of the Corporation during the course of doing business with the Corporation; A guest or client of RIOC, including any other State, Public or Civil Service employee while doing business with the

Corporation; Other individuals while being rendered assistance during and [sic] emergency situation.” The policy then specifically stated, “At no time should any RIOC employee have a passenger other than as stated above in a RIOC vehicle without the express prior approval of management.”

Torres’s Misuse of the State Vehicle

As RIOC President/CEO, Torres was permitted use of a state vehicle solely in order to conduct RIOC business. Nevertheless, Torres admitted to the Inspector General that throughout her tenure at RIOC, she used the RIOC vehicle for personal use – to commute to and from work during the week and on weekends as her personal vehicle – in violation of then RIOC Vehicle Use Policy. In addition, Torres drove non-state employees, including her children, in the vehicle in violation of both then RIOC and state policy. Although the vehicle was used by other RIOC employees when Torres was present on Roosevelt Island, this investigation revealed that the vehicle was commonly understood to be Torres’s vehicle. Torres engaged in this abuse of a state vehicle despite having signed an “Acknowledgement and Receipt of RIOC Employee Handbook,” on August 9, 2010, indicating that she had received, read and understood its contents, which included the entire Vehicle Use Policy.

When using the RIOC vehicle, Torres also improperly charged tolls to the RIOC E-ZPass account. For instance, RIOC E-ZPass records from August 2010 through September 2012 reflect a total of 128 trips on Saturdays or Sundays during which Torres used the RIOC E-ZPass to pay for her personal travel. One egregious example of Torres’s personal use of the RIOC vehicle occurred in July 2012. An analysis of E-ZPass records indicates that on Wednesday, July 18, 2012, Torres left Roosevelt Island at approximately 4 p.m. in the state vehicle; the odometer read

41,905 miles. When she returned the RIOC vehicle on Monday, July 23, 2012, the vehicle's odometer read 42,437 miles, a 532-mile increase over a five-day period. Torres's trip included charges to the RIOC E-ZPass for tolls at the Whitestone, RFK, Yonkers, Harriman and Tappan Zee toll sites.

When confronted with evidence of her misuse of the state vehicle and E-ZPass, Torres asserted that she believed, based on discussions with Chironis, that she was permitted to use the vehicle for personal use and treat it as her private vehicle even on weekends as long as she paid taxes for the fringe benefit of the personal use of the vehicle. Chironis related that when Torres arrived, she did not consult him about using a RIOC vehicle. Rather, she merely began using one. Chironis explained that upon noticing Torres's usage of a RIOC vehicle, a member of his staff consulted the Division of the Budget, which is charged with, among other responsibilities, state directives regarding permissible state vehicle usage. Chironis noted that a Division of Budget directive permitted heads of agencies to engage in personal usage of a vehicle²³ in addition to business usage, but "you've got to record or estimate to the best of your knowledge that the personal use of the car, and has to be declared as income." Chironis stated that, contrary to Torres's testimony, he did not address with Torres the parameters of her personal use of the vehicle, but rather explained that tax ramifications existed for personal use of a state vehicle. In fact, then RIOC Vehicle Use Policy was more restrictive than state vehicle use policy then in effect: while state vehicle policy at that time permitted agency heads unrestricted use of a state vehicle which would include commuting, RIOC policy only permitted business-related use of its vehicles. Had Chironis consulted RIOC Vehicle Use Policy, he would have seen that Torres's

²³ State Vehicle Use Policy promulgated in November 2013 requires express authorization from the Director of State Operations before the head of an agency may engage in personal use of state vehicle.

usage violated that policy. By his actions, Chironis tacitly approved Torres's misuse of the RIOC vehicle.

Torres added that former RIOC General Counsel and an Associate Counsel gave her permission to have her children and other non-state employees in the car. She asserted that she had inquired about such use because, from past experience working in New York City government, she knew that she could "definitely not" drive children or non-government persons in a government vehicle. Both counsel, however, denied advising Torres that having her children in the state vehicle was permissible. The former General Counsel had no recollection of any conversation with Torres regarding her vehicle usage. He noted, however, that had she inquired, he would have cited RIOC Vehicle Use Policy, which did not permit personal use of a vehicle and certainly did not permit children to ride in the vehicle. The Associate Counsel similarly related that he never discussed with Torres the issue of having children ride in a state vehicle.

Chief Financial Officer Chironis Failed to Properly Complete Torres's Taxable Fringe Benefit of the Improper Personal Use of the State Vehicle

After tacitly approving Torres's improper personal use of her state vehicle, Chironis was further derelict in his duties as chief financial officer by failing to require Torres to maintain detailed vehicle logs to delineate business and personal use of the vehicle and to then correctly account for her personal use, as required by federal law and New York State policy.²⁴

²⁴ IRS Regulations, DOB Budget Policy & Reporting Manual D-750; and State Comptroller Payroll Bulletin.

Methods by Which to Calculate the Fringe Benefit of Personal Use of a State Vehicle

If an employee is permitted to use a state vehicle for personal purposes, agencies must include in the employee's wages an amount that represents the value the employee received for the personal use of the vehicle. Under federal tax guidelines, several formulas exist for determining the fringe benefit derived from the use of an employer-provided vehicle based upon several factors including the value of the vehicle and its permitted use. The method utilized directly impacts the amount of the fringe benefit incurred by the employee, and the use of an incorrect method could lead to underreporting of taxable income.

The Internal Revenue Service (IRS) provides three methods for calculating income derived from personal use of a vehicle: annual lease value method, commuting rule and cents-per-mile rule. A summary of these fringe benefit evaluation methods are below.

- **Annual Lease Value Method:** This method calculates the fringe benefit based on the fair market value of the vehicle in question using tables published by the IRS. This method must be used if the fair market value of a newly assigned vehicle is in excess of an IRS determined value. The annual lease value method does not include the value of the fuel provided by the state agency. This method is most appropriate when the vehicle is provided for general use, both personal and business, by the employee.
- **Commuting Rule:** If the vehicle is used exclusively for business and commuting and the employee is required to commute in the vehicle, the employee is considered to have received a benefit equal to \$1.50 per commuting trip, or \$3.00 per day, as taxable income, including fuel. The commuting rule is only available to employees earning less than the determined maximum salary²⁵ and requires that the agency prohibit personal use of the vehicle other than commuting.
- **Cents Per Mile Rule:** Depending on the use and value of the vehicle, the employer may also report personal or commuting income at the applicable cents per rate. For this rule to be applicable, the vehicle must be regularly used for business, or must be driven at least 10,000 miles a year. This method is the most restrictive and cannot be used if the fair market value exceeds set amounts in the year the vehicle was assigned (For 2011, the maximum value was \$15,300) or if the Annual Lease Value method was used in the previous three years.

²⁵ For instance, in 2011, an employee earning more than \$145,700 could not use the commuting rule.

Chironis Used the Incorrect Valuation Method to Calculate Torres Taxable Fringe Benefit

In calculating Torres's taxable fringe benefit, Chironis testified that he merely estimated Torres's personal mileage to be 100 miles per month. Although RIOC did not provide any documentation of Chironis's calculation, the investigation determined, based on the amounts delineated on the 1099 income statements, that Chironis employed the cents per mile rule. Specifically, in 2011 and 2012, RIOC issued Torres 1099 income statements in the amount of \$600. Even if the cents per mile rule were the correct method, which is not the case, Chironis implemented it incorrectly. Because RIOC provides fuel for its vehicles at a RIOC-owned fuel facility located on Roosevelt Island, Chironis should have multiplied Torres's purported personal miles by .555, the percentage used when the agency provides the gasoline. Chironis incorrectly multiplied Torres's personal miles by .50, the percentage used if the agency does not provide the gasoline.

In calculating Torres's taxable fringe benefit in this way, Chironis disregarded both federal tax law and state guidelines. Initially, he did not require Torres to maintain a detailed vehicle log to differentiate between business and personal miles. Both IRS and state guidelines dictate that if a log is not maintained, all miles are deemed personal and taxable. Furthermore, in both 2011 and 2012, the vehicle's yearly mileage did not exceed 10,000 miles.²⁶ Finally, because the RIOC vehicle Torres used had a fair market value of \$16,950 in 2011, a number well above the \$15,300 maximum value for the cents per mile rule, Torres was precluded from using the cents per mile rule and should have employed the Annual Lease Value Method.²⁷

²⁶ The vehicle's yearly mileage was 9,198 for 2011 and 4,949 for 2012.

²⁷ Furthermore, Torres's vehicle was equipped with an E-ZPass, yet another taxable fringe benefit that should have been calculated. A conservative estimate of Torres's E-ZPass usage September 2010 through August 2012, calculating only her usage on weekends, indicates a taxable fringe benefit in the amount of \$578.04.

The precise manner in which Chironis assessed the taxable fringe benefit is not certain. What is clear is that Chironis improperly permitted Torres to drive her state vehicle for personal use in violation of RIOC policy and then compounded the error by incorrectly calculating her taxable fringe benefit. The Inspector General has referred this matter to the New York State Department of Taxation and Finance for review and appropriate action.

Misuse of State Credit Cards During Torres's Tenure

When Torres assumed the presidency of RIOC, RIOC had an established credit card policy. As detailed below, Torres disregarded the policy, charging significant sums she referred to as "business expenses" but which were prohibited by RIOC's credit card policy. Under Torres, other executive management also abused their credit card privileges. This rampant credit card abuse took place with the knowledge and approval of Chironis, who violated RIOC's credit card policy as well.

RIOC's Credit Card Policy

RIOC's current credit card policy has been in effect since July 23, 2009, over a year prior to the commencement of Torres's employment at RIOC. The policy states, in pertinent part:

RIOC's credit cards are to be used only for the acquisition of goods and services for business purpose [sic] mainly for emergencies and low cost purchase [sic]. Credit cards are issued for specific use to the following staff: Administrative – Purchasing Manager; Vehicles maintenance and repairs – Bus Operation Supervisor; Public Safety – Director of Public Safety; Island Operation – Director of Parks and Recreation; Engineer – Director of Engineering; Tram Operation – Director of Tram.

The policy also states that "the . . . Chief Financial Officer will designate the staff and determine the purchase authority." In addition, in a section entitled, "Unauthorized Credit Card Use," RIOC credit card policy specifically prohibits the use of the state-issued credit card for "personal

purchases,” and informs employees that misuse can result in disciplinary action, including termination.

The policy also requires the employee, prior to issuance of the credit card, to sign documentation agreeing to the conditions of use. However, when the Inspector General requested these acknowledgement documents, RIOC could produce only one signed “Credit Card Enrollment Form.” RIOC Purchasing Manager Rudolph Rajaballey, the author of the credit card policy, testified that, in lieu of requiring credit card holders to sign the form, he would simply inform them verbally of the parameters of card usage. This violation of RIOC credit card policy appears to have escaped scrutiny and continued unchecked by Chironis and the internal control officer.

Torres’s Misuse of her State-Issued Credit Card

After Torres assumed the presidency of RIOC in August 2010, she requested and received a RIOC credit card in October 2010. For her entire tenure, Torres charged expensive meals – with both RIOC employees and non-RIOC employees. While Torres claimed these meals as business meetings, they clearly were in direct contravention of RIOC credit card policy that “RIOC’s credit cards are to be used only for the acquisition of goods and services for business purpose mainly for emergencies and low cost purchase.” The chart below details the numerous charges by Torres on her RIOC credit card that the Inspector General has determined violated RIOC credit card policy.

| Date | Restaurant | Amount |
|-------------|-------------------------|---------------|
| 11/29/10 | Bella Via Restaurant | \$55.56 |
| 1/6/11 | Riverwalk Bar and Grill | \$32.02 |
| 2/23/11 | Cellini Restaurant | \$52.10 |
| 6/8/11 | Barbetta | \$197.00 |
| 6/15/11 | McCormick & Schmick's | \$139.26 |
| 6/14/11 | The Water's Edge | \$171.44 |
| 7/14/11 | Junior's Restaurant GCT | \$39.14 |
| 7/15/11 | Harbour Lights | \$158.20 |
| 9/14/11 | Barbetta | \$192.70 |
| 10/12/11 | Riverwalk Bar & Grill | \$89.20 |
| 11/7/11 | Rare Bar & Grill | \$200.00 |
| 11/22/11 | Dunkin Donuts | \$16.32 |
| 11/28/11 | Emilia | \$104.80 |
| 12/1/11 | Riverwalk Bar & Grill | \$68.48 |
| 12/29/11 | Felidia | \$355.87 |
| 12/29/11 | Starbucks | \$7.24 |
| 1/4/12 | Café Capriccio | \$197.55 |
| 1/6/12 | Jack's Oyster House | \$65.03 |
| 2/1/12 | Starbucks | \$13.83 |
| 2/10/12 | Hale and Hearty | \$42.93 |
| 2/16/12 | Bobby Vans | \$270.00 |
| 2/29/12 | Riverwalk Bar & Grill | \$51.60 |
| 3/1/12 | Dunkin Donuts | \$8.57 |
| 3/2/12 | Felidia | \$175.35 |
| 3/5/12 | The National | \$90.23 |
| 3/6/12 | Peking Duck House | \$24.55 |
| 3/20/12 | Starbucks | \$13.12 |
| 3/26/12 | Bloomingdales | \$62.67 |
| 3/27/12 | Riverwalk Bar & Grill | \$79.05 |
| 4/3/12 | Luna Piena | \$167.93 |
| 4/27/12 | Felidia | \$293.34 |
| 5/2/12 | Starbucks | \$7.19 |
| 5/9/12 | Pret a Manger | \$21.29 |
| 5/14/12 | Bella Via | \$43.91 |
| 6/6/12 | Hillstone Restaurant | \$75.15 |
| 6/13/12 | Starbucks | \$15.17 |
| 6/13/12 | Starbucks | \$1.75 |
| 6/13/12 | Brasserie | \$278.07 |
| 6/20/12 | Dunkin Donuts | \$5.05 |
| 6/25/12 | Bel Aire Diner | \$29.62 |
| 7/11/12 | Bel Aire Diner | \$86.67 |
| 7/16/12 | SQ Pier NYC | \$83.01 |
| 7/17/12 | Riverwalk Bar & Grill | \$41.36 |

Torres had numerous lunches that included only members of RIOC's executive staff at expensive Manhattan restaurants and claimed them as business meetings, including: a \$158.20 meal at Harbour Lights with Chironis and Martinez; a "holiday lunch" for \$355.87 at Felidia with Lewis, Martinez and Chironis; a \$62.67 lunch at Bloomingdales with Martinez following a City Hall meeting; and a \$86.67 lunch at Bell Air Diner for Martinez's birthday. These "business" meetings, all of which could have taken place in a conference room at the RIOC offices, were unnecessary and a misuse of RIOC resources.

Even when Torres met with her staff at RIOC's offices, she routinely provided coffee at RIOC's expense for the meetings, as noted in the above chart. Torres also had numerous expensive lunches with non-RIOC employees. In total, during her two-year period of RIOC employment, Torres charged over \$4,000 at restaurants, diners, and coffee shops for breakfasts, lunches and dinners, claiming them as RIOC business expenses.²⁸

These charges all appear to violate RIOC's credit card policy. Nevertheless, they were approved routinely by Rajaballey, RIOC Controller Muneshwar Jagdharry, and ultimately Chironis. When questioned about the propriety of these lunches, Rajaballey related that he once questioned Torres about an expense. Rajaballey explained, "she justified it as business and I didn't question it again." Jagdharry similarly related that the executives provided receipts and claimed the meal purchases as business expenses. Jagdharry admitted that his staff brought these questionable expenses to his attention, but he nevertheless permitted the charges because the executives had justified them as business. He explained that "he tried his best but it was hard to put his arms around people in those kinds of positions." Chironis admitted that Jagdharry

²⁸These charges are exclusive of charges Torres made on a trip to Washington, D.C. discussed later in this report. If those charges are included, Torres inappropriately charged over \$4,800 on her RIOC credit card.

periodically informed him that certain RIOC credit card expenses were inappropriate. There is no evidence that Chironis took any steps to address the concerns Jagdharry raised. In fact, as described below, Chironis himself violated RIOC credit card policy.

Chironis’s Misuse of his RIOC Credit Card

In October 2011, prior to representing RIOC at a conference, Chironis requested and received a RIOC credit card.²⁹ Upon return from this conference, Chironis immediately began to use the credit card inappropriately, charging meals with RIOC staff; dining on a number of occasions with RIOC staff at a restaurant owned by his wife; and purchasing personal items and services. Despite reimbursing RIOC for the cost of these personal items and services, Chironis’s actions violated RIOC credit card policy.

Meals and Other Purported Business Charges

Like Torres, Chironis used his RIOC credit card for “business expenses” that were outside the parameters of RIOC credit card policy. Chironis charged over \$2,000 in meals claiming them as business expenses.³⁰

| Date | Restaurant | Amount |
|-------------|-----------------------|---------------|
| 10/31/11 | Riverwalk Bar & Grill | \$63.19 |
| 11/2/11 | Tir Na Nog | \$91.20 |
| 12/2/11 | Aegean Cove | \$373.96 |
| 12/6/11 | Cucina & Co. | \$84.95 |
| 3/1/12 | Riverwalk Bar & Grill | \$185.86 |
| 3/2/12 | Sitio Samba Sabor | \$118.13 |
| 3/21/12 | Riverwalk Bar & Grill | \$22.47 |
| 4/5/12 | Trellis | \$54.75 |
| 4/19/12 | Aegean Cove | \$153.84 |

²⁹ Chironis’s representation at this conference was appropriate.

³⁰This total includes meals at La Silhouette, Chironis’s wife’s restaurant discussed late in this report, charged to his credit card. If the meals at La Silhouette charged to Rajaballey’s credit card are included, the total increases to over \$3,000.

| | | |
|---------|----------------------------------|----------|
| 5/1/12 | Riverwalk Bar & Grill | \$45.12 |
| 5/11/12 | Jackson Hole | \$47.01 |
| 8/22/12 | Five Napkin Burger | \$55.80 |
| 5/29/12 | Bel Aire Diner | \$23.87 |
| 6/8/12 | Riverwalk Bar & Grill | \$41.36 |
| 6/8/12 | Trellis | \$32.00 |
| 8/29/12 | Pane E. Vino | \$127.24 |
| 8/31/12 | SQ Pier NYC | \$75.78 |
| 9/10/12 | Salsa Y Salsa Mexican Kitchen | \$63.55 |
| 9/13/12 | Pane E. Vino | \$55.36 |
| 9/20/12 | Blue Room | \$7.00 |
| 9/20/12 | Atomic Wings | \$32.18 |

Of note, numerous meals included Torres. Therefore, even though she did not charge these purported business lunches to her credit card, she was present and complicit in the unauthorized charges to RIOC. General Counsel Lewis also was present at several lunches, although this investigation revealed only a few questionable charges on his RIOC credit card, which Lewis reimbursed to RIOC.

La Silhouette

Excluded from the above chart are four lunches at La Silhouette, a restaurant partly owned by Chironis's wife: on January 5, 2011, for \$113.64; January 10, 2011, for \$264.28; March 9, 2011, for \$397.91; and April 20, 2011, for \$722.08.³¹ Of particular note, the April 20, 2011 meal included eight members of the finance staff. The cost of the beverages, including nine glasses of wine, was \$136, and Chironis left a \$120 tip. Chironis testified that he took the employees to the restaurant to increase morale and show appreciation for a "job well done." The total cost to RIOC for the four meals at La Silhouette was \$1,497.91.

³¹ The two meals in January 2011 were charged to Chironis's card while the meals in March and April 2011 were charged to Rajaballey's card.

Initially, as discussed earlier in this report, these expensive meals deemed business expenses by Chironis were inappropriate and violated RIOCCredit card policy. More significantly, these four costly meals at a restaurant partly owned by Chironis’s wife necessarily enriched him as well. Chironis claimed to have divulged his wife’s ownership interest in the restaurant to Torres. Torres, however, testified that she thought that Chironis’s wife was the “maitre d.” When confronted with these meals, Chironis conceded that “in retrospect, it does not look good,” and that he “used poor judgment” in going to his wife’s restaurant.

Chironis’s Use of State-Issued RIOCCredit Card for Personal Purchases

This investigation also revealed that Chironis used his RIOCCredit card for personal purposes. Even though Chironis promptly reimbursed RIOCCredit, these purchases were inappropriate and in violation of RIOCCredit card policy.

Chironis received his RIOCCredit card in October 2011, and in December 2011 and January 2012 he charged five personal items totaling \$682.64. He reimbursed RIOCCredit and wrote on his Monthly Transaction Log for December 2011:

- (A) Lost my ATM Card and had no choice but to use Company Card – X Mas.
- (B) Rental Car – did not accept Debit card
Have gotten personal credit card, will not use company card.

Those declarations notwithstanding, Chironis continued to charge personal items to his RIOCCredit card: one personal item in April 2012; three personal items in May 2012; six personal items in July and August 2012; and five personal items in September 2012. From October 2010 through September 2012, Chironis charged a total of \$1,589.72 to RIOCCredit. Although Chironis reimbursed RIOCCredit monthly, these charges were inappropriate and violated RIOCCredit card policy.

Chironis's testimony to the Inspector General was inconsistent and questionable. He claimed ignorance of RIOC policy proscribing charging personal expenses to the RIOC credit card and, at the same time, claimed that he sometimes mistook his RIOC card for his personal credit card, which was the same color, asserting that he always understood he would reimburse RIOC for personal charges. Notwithstanding any legitimacy to these claims, Chironis reiterated that, "looking back," this usage was "poor judgment."

Martinez Misused his State-issued RIOC Credit Card for Personal Charges

Martinez also requested and received a RIOC credit card in October 2011 because he was attending a conference in Puerto Rico as a RIOC representative. Like Torres and Chironis, Martinez improperly charged meals to his RIOC credit card: a \$50.45 lunch on November 7, 2011; a \$70.60 dinner on November 11, 2011; a \$66.61 meal on January 13, 2012; a \$350.63 lunch after a City Hall meeting with seven members of RIOC staff on February 7, 2012; a \$60.17 lunch on February 22, 2012; a \$70.70 dinner on March 1, 2012; a \$37.00 lunch with three members of the RIOC staff on March 22, 2012; a \$20.37 lunch on April 5, 2012; and a \$109.40 lunch on June 1, 2012. In total, Martinez charged over \$800 in meals claiming them as business expenses. These charges were inappropriate and violated RIOC credit card policy.

Like Chironis, Martinez also charged personal items and services to his RIOC credit card on a number of occasions. When confronted with these charges, Martinez admitted to the Inspector General that in July 2012, while on vacation in Canada, he did not have enough credit on his personal credit card to rent a vehicle, so he used the RIOC card instead. Notwithstanding, on his Monthly Transaction Log, Martinez wrote as a false justification for using the RIOC credit card, "Due to a problem with my magnetic strip on my personal credit card, I had to use the

company-issued credit card to rent a car for personal use.” He also charged other items while vacationing in Canada. Martinez noted that he reimbursed RIOC for the charges and “no one brought to my attention that I couldn’t do it. . . .” Martinez added, “I realized I shouldn’t be doing it . . . [and] I stopped.”

Torres Charged a Trip to RIOC that was Unrelated to RIOC business

RIOC Travel Policy states, “All Travel and Entertainment Expenses must be pre-approved by management. . . . Should hotel or air travel be required, these expenses should be pre-arranged and paid for by RIOC prior to travel.” The Inspector General determined that Torres took a trip claiming it as RIOC business and charging it to her RIOC credit card that was unrelated to RIOC business.

Torres attended a Hispanic Heritage Celebration in Washington, D.C.

On September 30, 2011, Torres traveled to Washington, D.C., to attend a portion of President Barack Obama’s month-long Hispanic Heritage Celebration. For the week of September 26-30, the focus of the event was “Renewing the American Dream for Our Well-Being – A focus on healthy families and healthy communities.” To attend the celebration, Torres charged to her RIOC-issued credit card \$301 for a roundtrip train ticket to Washington, D.C.; \$353.81 for one night’s lodging at the Hay Adams hotel; and \$69.75 for breakfast. On her Monthly Transaction Log, Torres described the charges for attending the celebration as “a RIOC representative.” Notwithstanding, no evidence exists of any nexus between RIOC business and this event, and Torres offered none. When questioned by the Inspector General regarding these charges, Torres simply declared, it was “a big honor to be invited.”

RIOC Lacks an Internal Control Officer as Required by the Public Authorities Law

Title 8 of the Public Authorities Law requires RIOC, in its capacity as a public benefit corporation, to integrate an internal control system, which includes but is not limited to: “the safeguarding of assets; checking the accuracy and reliability of accounting data and financial reporting promoting the effectiveness and efficiency of operations; ensuring compliance with applicable laws and regulations; and encouraging adherence to prescribed managerial policies.” To this end, the governing board is tasked with establishing an internal control system “designed to identify internal control weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the . . . ongoing internal controls. The board must also designate an internal control officer “who shall report to the head of the authority.”

Pertinent to this investigation, in 2008, RIOC’s Board appointed an internal control officer. However, when the individual resigned her RIOC employment in May 2011, no replacement was named. To date, the position remains vacant. That RIOC lacks an internal control officer to safeguard RIOC’s assets, check its accounting data, and ensure that RIOC is adhering to its own policies, specifically the credit card policy, indicates a serious lapse in management oversight and structure, and a consequential risk of significant breaches of the ethical and fiscal obligations of this state entity. Accordingly, the Inspector General recommends that RIOC prioritize the designation of an internal control officer.

FINDINGS AND RECOMMENDATIONS

In March 2012, the New York State Inspector General commenced an investigation into the Roosevelt Island Operating Corporation (RIOC) and determined that former Vice President of Operations Fernando Martinez engaged in a kickback scheme whereby he maneuvered to have his friend's janitorial cleaning service, Bright Cleaning Solutions, LLC, hired for work at RIOC in exchange for monthly \$1,000 payments and percentages of the projects' profits. In total, Martinez received over \$183,000 in kickbacks from Bright Cleaning Solutions during his tenure at RIOC. Martinez was prosecuted by the New York County District Attorney's Office. On January 23, 2014, Martinez pleaded guilty to one count of offering a false instrument for filing in the first degree, a felony. On February 20, 2014, Martinez was sentenced to six months incarceration followed by a five-year term of probation. He was required to forfeit \$86,647.98.³² This investigation further found that Martinez hired a relative at RIOC and utilized a relative's company for RIOC projects in violation of state ethics policy and RIOC policy proscribing nepotism. Following these discoveries, Martinez resigned his RIOC employment on December 6, 2012.

This investigation also found that former President/CEO Leslie Torres was consistently absent from RIOC's offices, abused then RIOC vehicle usage policy, and misused her state credit card and created an atmosphere that empowered other RIOC executives to also misuse their credit cards. Torres also attended an out-of-state event unrelated to RIOC business that she improperly charged to RIOC. Torres resigned her RIOC employment effective September 21, 2012, in the wake of this investigation.

³² Javier Ramos, the owner and operator of Bright Cleaning Solutions, was also prosecuted by the New York County District Attorney's Office. On January 27, 2014, he pleaded guilty to offering a false instrument in the second degree, a misdemeanor, and was sentenced to a conditional discharge and required to forfeit \$7,500.

The illegal activity and violations of state law and RIOC policy took place during the tenure of former Chief Financial Officer Steven Chironis. As CFO, Chironis was charged with monitoring procurements at RIOC. Nevertheless, Chironis permitted Martinez to flout state procurement law and RIOC procurement policy, negligence which aided Martinez in effectuating his scheme. In addition, Chironis tacitly approved Torres's misuse of her RIOC vehicle for personal purposes, and then mismanaged and miscalculated Torres's taxable fringe benefit in violation of federal law and New York State policy. Chironis also permitted Torres to charge meals to her credit card, classifying them as "business expenses" in violation of RIOC policy. Indeed, he and Martinez engaged in the same misuse of their RIOC credit cards shortly after Torres began doing so. Chironis resigned his RIOC employment effective August 31, 2013.

Since May 2011, RIOC has not had an internal control officer, as required by the Public Authorities Law. That RIOC lacks an internal control officer to safeguard RIOC's assets, check its accounting data, and ensure that RIOC is adhering to its own policies, specifically the credit card policy, indicates a serious lapse in management oversight and structure, and a consequential risk of significant breaches of the ethical and fiscal obligations of this state entity.

Former RIOC Vice President Martinez Engaged in Illegal and Unethical Conduct

Martinez's Kickback Scheme

The Inspector General's investigation revealed that Martinez and the owner and operator of Bright Cleaning Solutions, Javier Ramos, are longtime friends. Martinez testified to the Inspector General that when he began to experience financial difficulties, he approached Ramos about an arrangement whereby he would help Ramos obtain cleanup projects in exchange for a monthly \$1,000 consulting fee and a portion of the projects' profits. This arrangement

commenced well prior to Martinez's employment at RIOC and continued throughout his tenure at RIOC until the scheme was uncovered by this investigation.

Martinez was able to effectuate his scheme because he and other RIOC executives failed to follow New York State procurement law and RIOC procurement policy. RIOC procurement policy, which is overseen by the chief financial officer, required RIOC to publish in the State Contract Reporter and competitively bid any procurement contract estimated at \$15,000 or more. Instead, Martinez and other RIOC executives improperly invoked exceptions to the competitive process that ostensibly permitted Martinez to select a vendor on a non-competitive basis. In this way, Martinez selected Bright Cleaning Solutions for what grew to be into a large cleanup project at Roosevelt Island. As a result, Ramos received significant proceeds from this illegal scheme. After that project was completed, Bright Cleaning Solutions was chosen for other projects, thereby further enriching Martinez through kickbacks.

Martinez's Acts of Nepotism

The Inspector General's investigation also uncovered that Martinez hired one member of his family for a RIOC staff position and awarded RIOC contracts to another family member who provided services to RIOC as a vendor, in violation of state law and RIOC's anti-nepotism policy. In the fall of 2007, Martinez was integrally involved in the hiring of his brother-in-law, Michael Smith, for the position of RIOC Parks and Recreation Manager. In addition, Martinez arranged for RIOC to utilize the printing services of Fuse Printing, a vendor owned and operated by another brother-in-law, Stuart Standard. Not only did Martinez not reveal these relationships to anyone at RIOC as required by RIOC policy, he actively concealed them and participated in the hiring processes.

Former President/CEO Leslie Torres Abused her Position

This investigation uncovered that Torres was derelict in her duties. Specifically, she was consistently absent from RIOC's offices; she abused then RIOC vehicle usage policy; and she misused her state credit card and created an atmosphere that empowered other RIOC executives to do the same.

Torres's Chronic Absenteeism

The Inspector General found that Torres often was absent from the office during regular business hours. It was rare for Torres to be in the office for an entire work week, and when she was present in the RIOC offices, she would arrive late and leave early. A RIOC employee testified that, following complaints from Roosevelt Island residents, Torres instructed an administrative assistant to turn on the lights in her office, which was visible from the street, to give the appearance that she was present. A RIOC employee characterized Torres as an "absentee manager."

Initially, when queried by the Inspector General regarding her working hours, Torres testified to being present at the RIOC offices "every day" generally from "9:30 to 5:30." However, when pressed, Torres admitted that she was "less likely" to be physically present at her office on Roosevelt Island. Torres claimed that she often worked from home. The RIOC Employee Manual however, contains no provisions regarding "telecommuting" or working from home. When asked by the Inspector General if she worked a standard work week, she responded "absolutely." Notably, no other RIOC employee works from home, and RIOC denied permission to an attorney who had sought to do so.

Torres's Misuse of a RIOC Vehicle

This investigation also revealed that Torres routinely misused her state vehicle in violation of then RIOC Vehicle Use Policy, which states, "RIOC owned vehicles are never to be operated for personal use." As RIOC President/CEO, Torres was permitted use of a state vehicle solely in order to conduct RIOC business. Nevertheless, Torres admitted to the Inspector General that throughout her entire tenure at RIOC, she used the RIOC vehicle for personal use – to commute to and from work during the week and on weekends as her personal vehicle. In addition, Torres drove non-state employees, including her children, in the vehicle in violation of both RIOC and state policy. Although the vehicle was used by other RIOC employees when Torres was present on Roosevelt Island, this investigation revealed that the vehicle was commonly understood to be Torres's vehicle. Torres's vehicle use was known to all RIOC executives.

CFO Chironis was derelict in his duties as chief financial officer, as an initial matter, by tacitly approving Torres's vehicle misuse. More significantly, however, Chironis, failed to require Torres to maintain detailed vehicle logs to delineate business and personal use of the vehicle, and then compounded this error by incorrectly calculating her taxable fringe benefit as required by federal law and New York State policy.

The Inspector General has referred this matter to the New York State Department of Taxation and Finance for review and appropriate action.

Misuse of RIOC Credit Cards by Torres and Other Executives

When Torres assumed the presidency of RIOC, RIOC had an established credit card policy. Torres disregarded the policy. She had a credit card issued to her in October 2010, and

charged significant sums she referred to as “business expenses” that were prohibited by RIOC’s credit card policy. Specifically, RIOC’s credit card policy states “RIOC’s credit cards are to be used only for the acquisition of goods and services for business purpose mainly for emergencies and low cost purchase.” [sic]

For her entire tenure, Torres charged expensive meals – with RIOC employees and non-RIOC employees – claiming them as business meetings in direct contravention of RIOC credit card policy. These “business” meetings, all of which could have taken place in a conference room at the RIOC offices, were unnecessary and a misuse of RIOC resources.

In October 2011, prior to representing RIOC at a conference, Chironis requested and received a RIOC credit card. Upon return from this conference, Chironis immediately began to use the credit card inappropriately, charging expensive meals with RIOC staff; dining on four occasions with RIOC staff at La Silhouette, a restaurant owned by his wife, for a total cost to RIOC of \$1,497.91; and purchasing personal items and services – all of which he reimbursed RIOC for but were nevertheless in violation of RIOC credit card policy. Like Torres and Chironis, Martinez also improperly charged expensive meals to his RIOC credit card.

RIOC Controller Muneshwar Jagdharry admitted that his staff brought the expenses to his attention, but he nevertheless permitted the charges because the executives justified them as business. He explained that “he tried his best but it was hard to put his arms around people in those kinds of positions.” Chironis admitted that Jagdharry periodically informed him that certain RIOC credit card expenses were inappropriate. Chironis clearly did nothing to stop these inappropriate charges. Instead, as noted, Chironis himself violated RIOC credit card policy.

Torres Charged a Trip to RIOC that was Unrelated to RIOC business

On September 30, 2011, Torres traveled to Washington, D.C., to attend a portion of President Barack Obama's month-long Hispanic Heritage Celebration. To attend the celebration, Torres charged to her RIOC-issued credit card \$301 for a roundtrip train ticket to Washington, D.C.; \$353.81 for one night's lodging at the Hay Adams hotel; and \$69.75 for breakfast. On her Monthly Transaction Log, Torres described the charges for attending the celebration as "a RIOC representative." Notwithstanding, no evidence exists of any nexus between RIOC business and this event, and Torres offered none. When questioned by the Inspector General regarding these charges, Torres declared, it was "a big honor to be invited."

Recommendations

As a result of the findings of this investigation, the Inspector General makes the following recommendations.

RIOC must follow state procurement law applicable to it, strengthen its own policies, and then maintain strict adherence to them. Exceptions to competitive bidding should be invoked rarely and then subjected to heightened scrutiny. The chief financial officer must review all procurements to insure compliance with all applicable laws and policies. RIOC should consider recouping funds from Fuse Printing for services not rendered.

Similarly, RIOC's chief financial officer and comptroller must monitor credit card usage to ensure conformance to RIOC policy. RIOC should issue credit cards only to employees whose daily activities require them and whose usage conforms to RIOC policy. In addition, RIOC should initiate action to recoup monies from Torres, Chironis and Martinez for inappropriate charges to their RIOC credit cards.

RIOC should prioritize the designation of an internal control officer who shall report to the head of the public benefit corporation as required by the Public Authorities Law, to implement and review internal controls in order to safeguard RIOC's assets, check its accounting data and financial reporting, and ensure adherence to its own prescribed managerial policies.

RIOC should also ensure that its vehicles are being used appropriately and consistent with its Vehicle Use Policy. Because RIOC issued to Torres inaccurate 1099 income statements, the Inspector General recommends that RIOC issue corrected 1099 income statements to Torres in compliance with New York State policy and IRS regulations.

As noted in this report, all of the RIOC employees who had engaged in illegal and/or improper behavior have either resigned their RIOC employment, were terminated, or were disciplined. The Inspector General has referred her findings and recommendations to RIOC's new administration.

CORRECTIVE ACTION TAKEN BY RIOC IN RESPONSE TO THE INSPECTOR GENERAL'S FINDINGS AND RECOMMENDATIONS

During the pendency of this investigation, the Inspector General shared the findings and recommendations of this investigation with RIOC and assisted RIOC in formulating the corrective action described herein.

The agency has advised that in June 2014, RIOC's Board approved new "Guidelines Regarding the Use, Awarding, Monitoring and Reporting of Procurement Contracts," to ensure conformity with and adherence to state procurement laws. In addition, RIOC has implemented a "Procurement Document Checklist" that monitors RIOC's adherence to its procurement policy at every stage of each procurement process. Furthermore, procurements are now subject to

increased oversight, scrutiny, and levels of approval. As a result, exceptions to competitive bidding must be justified and are utilized only when necessary.

With regard to RIOC-issued credit cards, the agency has retrieved all credit cards. One credit card remains active for procurement purposes but requires approval of RIOC's president prior to its usage. Furthermore, RIOC has issued demand letters to those people named in this report to recoup the inappropriate charges to their state credit cards.

With regard to usage of RIOC's vehicles, as noted in this report, RIOC has adopted the state vehicle policy promulgated in November 2013.

In addition, RIOC has issued demand letters to seek reimbursement for the improper expenditures discussed above.

Finally, RIOC is in the process of hiring an Internal Control Officer.