



State of New Jersey

OFFICE OF THE STATE COMPTROLLER
P.O. Box 024
TRENTON, NJ 08625-0024

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

A. MATTHEW BOXER
State Comptroller

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Contact: Pete McAleer
609-633-2377

State Comptroller investigation reveals pattern of wasteful and inappropriate spending at Delaware River Port Authority

Ineffective oversight and weak policies led to a culture at the Delaware River Port Authority (DRPA) in which tollpayer dollars repeatedly were wasted and mismanaged, according to an extensive investigative report released today by the Office of the State Comptroller (OSC).

The OSC report found that the DRPA frequently granted itself such broad discretion and operated under such vague program guidelines that almost any conceivable action or expenditure could be deemed acceptable. In other areas of DRPA operations, the report found appropriate policies and procedures designed to safeguard against the waste of tollpayer funds were avoided or simply ignored.

"In nearly every area we looked at, we found people who treated the DRPA like a personal ATM, from DRPA commissioners to private vendors to community organizations," State Comptroller Matthew Boxer said. "People with connections at the DRPA were quick to put their hand out when dealing with the agency, and they generally were not disappointed when they did."

To the DRPA's credit, Boxer said, the agency recently has corrected or begun to correct a number of the deficiencies identified in the OSC report and some of the programs associated with OSC's findings have been terminated.

OSC began its investigation in 2010 following a gubernatorial request, which included a request to look specifically at insurance-related payments at the DRPA. What follows are some of the highlights from the 77-page report released today.

Commission Sharing Among Insurance Brokers

OSC's investigation found that over the past 10 years, more than \$1.5 million in commissions derived from the placement of DRPA insurance policies was shared among disclosed and undisclosed insurance brokers in a series of ambiguous and non-transparent dealings. The commissions were shared regardless of whether the brokers actually performed any corresponding services for the DRPA.

While the sharing of insurance commissions among licensed brokers is legal in New Jersey, investigative agencies in both New Jersey and New York have condemned the practice and have found that commission sharing arrangements for public contracts have been politically motivated and wasteful of taxpayer funds.

New York has banned the practice in situations in which the payments are not related to work actually performed. New Jersey's State Commission of Investigation recommended a similar ban in 1980, but it was never adopted. The OSC report reiterates that recommendation.

Graham and Willis

OSC specifically found that in 2003, the DRPA, in an effort to promote bi-state parity, directed its New Jersey-based insurance broker and its Pennsylvania-based broker to evenly divide their DRPA insurance commission payments. This arrangement came to be known as the "true-up." In accordance with this arrangement, the Pennsylvania-based Graham Company paid Willis of New Jersey more than \$500,000 over the next six years. As a result, Willis received payments that did not correspond with actual brokerage services, while Graham performed services for reduced compensation.

While senior DRPA officials had taken the position in media accounts that the true-up was purely an agreement between DRPA's insurance brokers, documents and witness statements reveal that DRPA representatives actively were engaged in the redistribution of the commission payments, according to the OSC report.

The report found that the DRPA should have taken advantage of Graham's willingness to perform these brokerage services for a reduced cost, and that the agency's failure to do so represented a lost opportunity for cost savings. "The DRPA's focus should have been on saving public funds rather than shifting them among its vendors," said John Hoffman, the Director of OSC's Investigations Division.

A senior DRPA employee told OSC that she raised concerns about the commission sharing arrangement shortly after she was hired by the DRPA in 2008. The employee said she subsequently was called into a meeting with senior DRPA officials and was told not to get involved in the issue because it went "further above your head than you know." In a 2010 e-mail to one of DRPA's commissioners, the employee expressed her frustration, stating, "I have been beating this drum . . . and all I ever got was a closed door meeting where I was told 'you don't want to get in the middle of this' like I was dealin' w the F**** mob or somethin'."

Willis and Conner Strong

In investigating the history of the true-up, including the circumstances under which Graham and Willis originally were chosen as DRPA brokers, OSC found that the DRPA did not

memorialize the process it used to select Willis as its broker, and the DRPA could not provide OSC with any documents related to Willis' selection. Instead, the earliest available documentation relating to Willis' selection is an e-mail from the chief executive officer of another insurance firm, Commerce Insurance Services (now known as Conner Strong & Buckelew), informing Willis that it would be appointed as DRPA's co-broker of record.

Willis officials confirmed to OSC that they were notified of the selection by Conner Strong and that until that time they had not even been aware they were under consideration for the DRPA position. Conner Strong has no official connection to the DRPA nor does it have the authority to appoint DRPA's insurance broker.

Over the next seven years, Willis paid \$455,000 of its DRPA-originated commissions to Conner Strong and a related insurance broker. Conner Strong contends the payments it received were attributable to general marketing and referral efforts and had nothing to do with the DRPA. Willis officials, however, stated to OSC that the payments were made as a referral fee to compensate Conner Strong for its role in securing DRPA business for Willis and that Willis viewed those fees as a cost of doing business with the DRPA.

Willis officials informed OSC that the payments to the related broker, totaling \$45,000, were sent at Conner Strong's direction and were sent care of Conner Strong's address. The broker receiving these payments told OSC he did not remember performing any significant work to earn the payments, at one point stating to OSC investigators, "I performed nothing."

DRPA officials told OSC they were unaware of the payments from Willis to Conner Strong and the related broker. DRPA's chief executive officer told OSC that if he had been aware that these payments had occurred, he would have sought to determine whether the DRPA could obtain its brokerage services at a lower cost if these brokers were not sharing in the compensation.

Graham and West

The OSC report also details another DRPA commission sharing arrangement, this one between Graham and another Pennsylvania-based broker, the West Insurance Agency. OSC found Graham paid West \$684,254 in DRPA-originated commissions between 2000 and 2010, but the parties involved were unable to document or determine what services, if any, West performed for the commissions. Graham officials told OSC that they were required by the DRPA and specifically the DRPA board to pay West. DRPA officials interviewed by OSC either denied that there was such a requirement or said they did not recall the specific details regarding these payments.

In response to OSC's findings, the DRPA has committed that from this point forward, it will prohibit the practice of fee-splitting among its brokers. The DRPA also recently instituted a competitive, public process for procuring insurance brokers that eliminates any need for referral payments.

Social and Civic Sponsorship Fund

In 2004, the DRPA established a fund that donated toll money to social and civic causes. OSC's investigation found that the vast majority of this funding -- for example, 79 percent in

2009 -- went to organizations linked to DRPA officials or to organizations that provided a personal benefit to DRPA officials in exchange for the contribution.

OSC found that the DRPA did not follow its own policies or use objective criteria in determining whether a particular contribution would be an appropriate use of tollpayer funds. Instead, these expenditures were approved in an informal manner and little, if any, information was actually provided by beneficiaries to support funding requests. In most cases funding was approved without the required application even being submitted.

OSC found, for example, that the DRPA used this account to donate funds for the following purposes:

- \$59,180 for 13 half-page newspaper advertisements, all in the same newspaper, that congratulated local high school graduates and acknowledged various holidays and occasions. The DRPA commissioner who is listed as requesting the funding for the ads also was the president and chief executive officer of the newspaper that received the funding. The DRPA did not buy similar advertisements in any other newspapers.
- \$15,000 for three separate galas that were co-chaired by a DRPA commissioner who requested and secured the DRPA funding for the events. The commissioner also sat on the board of directors of two of the organizations that received the funding. The galas, titled, for example, "Argentina-Night of Tango and Wine" and "A Night in Acapulco," were held at posh locations in Philadelphia.
- \$5,000 for the University of Pennsylvania in connection with the school's hosting of the 2005 NCAA lacrosse championships, in exchange for VIP passes and 12 game tickets.
- \$2,000 for a table of eight DRPA officials and guests to attend the 2006 "Gypsy Melodies Gala."
- Two \$5,000 payments for annual "Get to Know Us" legislative weekends, at which toll funds were used to provide DRPA officials with access to Pennsylvania state legislators while attending Phillies games, a cocktail hour at the Penn's Landing Festival Pier and a carriage ride historical tour.

"To state the obvious, commuters who pay to cross the Delaware River every day should not have their toll money used for DRPA officials to enjoy a carriage ride through Philadelphia or a 'night of tango and wine,'" Boxer said.

Economic Development

Over the past two decades, the DRPA engaged in a massive economic development campaign with borrowed money and to the detriment of its other projects. Though DRPA's charter indicates that it may fund economic development only with surplus funds, OSC found the agency took on significant additional debt through the issuance of bonds to fund more than \$440 million of economic development projects unrelated to DRPA bridges and other capital assets.

Moreover, the DRPA ignored its own policies and procedures in funding and monitoring those economic development projects in an informal manner, according to the OSC report.

For example, despite the presence of an economic development division set up at DRPA to independently assess the merits of potential projects absent political considerations, projects arrived before that division with all key decisions already having been made. Most economic development projects were brought to the agency's attention by a commissioner or a state official. The DRPA's chief executive officer told OSC that he did not even know how a project could get evaluated and approved if it came from the general public.

The OSC report also found that the DRPA violated the terms of its charter in not providing the public with an opportunity to pre-review and comment on \$60 million of its economic development projects.

In addition, over time DRPA's economic development program shifted from one that favored loans to one that consisted almost exclusively of outright grants. OSC found that this switch not only led to decreased financial return for the DRPA, but even less oversight of its economic development spending.

E-Z Pass Abuse

Until recently, DRPA commissioners, retired commissioners and employees at the rank of director and above received lifetime free passage over the four DRPA bridges: Benjamin Franklin, Walt Whitman, Commodore Barry and Betsy Ross. OSC's investigation revealed that DRPA's lack of policies and procedures for this program led to the lifetime benefit being extended to other individuals as well. Specifically, DRPA officials were able to enroll individuals such as friends, business associates, in-laws and their adult children on their E-Z Pass account, which in turn provided these individuals with the benefit of free passage over DRPA bridges.

For example, one former DRPA commissioner placed on his account a former business associate with no relation to the DRPA, as well as the daughter of a friend. The commissioner told OSC he did not know how those individuals ended up on his E-Z Pass account.

In addition, because the DRPA had not implemented adequate internal controls, 53 individuals with no affiliation to DRPA whatsoever mistakenly were granted unlimited free passage over DRPA bridges from 2003 to 2008 after DRPA's E-Z Pass vendor inadvertently placed them in the lifetime free passage plan.

OSC's investigation determined that, in total, DRPA's free bridge passage program resulted in the loss of more than \$1 million in toll revenue over the past 10 years.

Reimbursed Business Expenses

OSC's investigation also revealed that DRPA employees routinely were reimbursed for expenses that violated the agency's own reimbursement policies.

One of the more egregious violations occurred when two DRPA employees charged the agency's American Express card more than \$2,000 to attend the 2009 Pennsylvania Society Weekend at the Waldorf-Astoria hotel in New York City. The event consisted of a series of

political fundraisers and lobbyist-sponsored receptions with no relation to the business of managing and operating DRPA's bridges and other capital assets.

Other expenses approved by the DRPA that violated its stated policies included a \$2,033 DRPA commissioners' dinner at the Pennsauken Country Club, and a \$272 business lunch at Caffè Aldo Lamberti attended by DRPA employees and guests.

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In its response to the report, the DRPA noted that the agency is committed to implementing OSC's recommendations.

Boxer thanked the New Jersey Department of Banking and Insurance for its assistance with the investigation.