



**STATE OF NEW JERSEY
OFFICE OF THE STATE COMPTROLLER**

INVESTIGATIVE REPORT

DELAWARE RIVER PORT AUTHORITY

**A. Matthew Boxer
COMPTROLLER**

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Introduction

The Office of the State Comptroller (OSC) initiated an investigation of the Delaware River Port Authority (DRPA) following public criticism of DRPA's operations and practices, a request for an investigation from the Governors of New Jersey and Pennsylvania, and a similar invitation from DRPA itself. OSC's investigation revealed a history and culture of weak policies, procedures and internal controls that have contributed to wasteful spending and mismanagement of the funds entrusted to DRPA by tollpayers.

For example, within the past ten years, more than \$1.5 million of commissions derived from the placement of DRPA's insurance policies was shared among disclosed and undisclosed insurance brokers in a series of ambiguous and non-transparent dealings, regardless of whether the brokers actually provided a service to DRPA related to the redistributed commission. Moreover, DRPA expended more than \$440 million on economic development in contravention of stated DRPA policies and procedures and to the detriment of DRPA's financial standing and infrastructure. In addition, several areas of DRPA spending were plagued by such broad program parameters that almost any conceivable expenditure was deemed acceptable, and oftentimes sound policies and procedures simply were avoided or ignored.

To DRPA's credit, DRPA recently has corrected or is working to correct a number of these deficiencies. That stated, tollpayers have borne a financial burden attributable to years of mismanagement and neglect, and continue to do so for those failings that have yet to be rectified.

Executive Summary

OSC's investigation revealed that the following general factors led to deficiencies in DRPA's financial practices and operations:

- DRPA's focus on ensuring that its Pennsylvania-based and New Jersey-based vendors received equal funding was detrimental to DRPA's core mission of efficiently operating four bridges and a train line across the Delaware River;
- In certain areas, DRPA granted itself such broad discretion and operated with such vague program parameters that almost any conceivable action or expenditure arguably was consistent with DRPA policies; and
- In other areas of DRPA's operations, appropriate policies and procedures designed to safeguard against waste of tollpayer funds simply were avoided or ignored.

A summary of OSC's specific findings is set forth below.

Insurance Brokers

OSC's investigation revealed that more than \$1.5 million of commissions derived from the placement of DRPA's insurance policies was shared among both disclosed and undisclosed insurance brokers regardless of whether each of the brokers actually placed or assisted in placing DRPA insurance policies or, for that matter, performed any service at all. Although the sharing of insurance commissions among licensed insurance brokers is legally permissible in New Jersey, the practice as it was carried out at DRPA was potentially wasteful of tollpayer funds and is particularly inappropriate for public entities. The practice has been the subject of substantial criticism by oversight agencies and has been banned in New York and at least one other state.

OSC's investigation specifically revealed that more than \$500,000 of commissions derived from the placement of DRPA insurance was redistributed at DRPA's direction among its insurance brokers as the result of what has been referred to as the "true-up." Pursuant to this unique arrangement, DRPA's Pennsylvania and New Jersey brokers redistributed commission

payments on an annual basis to ensure that each ultimately received an equal amount of DRPA funds. OSC's specific findings concerning the true-up include the following:

- In 2003, DRPA identified that Pennsylvania-based brokers were receiving the majority of commissions derived from the placement of DRPA's insurance policies and acted to create parity between a New Jersey-selected broker, Willis of New Jersey (Willis), and a Pennsylvania-selected broker, The Graham Company (Graham), which ultimately led to the true-up reconciliation process;
- Although DRPA has told OSC and the public that the true-up solely was an arrangement between DRPA's insurance brokers, documents and witnesses reveal that DRPA representatives actively were engaged in this redistribution of commission proceeds;
- DRPA's effort to create broker parity led to Graham paying Willis more than \$500,000 over the course of six years for reasons unrelated to the actual placement of insurance, but instead attributable to DRPA's focus on ensuring that Pennsylvania-based and New Jersey-based vendors would receive equal compensation; and
- This focus on ensuring parity led to Willis being paid these fees for performing no corresponding brokerage services while Graham ultimately performed services for reduced compensation, resulting in an inefficient utilization of insurance brokers.

Further questions arise from the circumstances under which Willis was selected as a DRPA broker. OSC was unable to definitively determine how, why or by whom Willis was selected in late 2002; there is no documentation memorializing the process through which Willis was selected and there has never been a formal written agreement between DRPA and Willis. The only contemporaneous document regarding the selection of Willis reveals that Willis was first notified of its appointment by an independent party with no formal affiliation with DRPA, specifically, the chief executive officer of Commerce Insurance Services, which is now known as Conner Strong & Buckelew (Conner Strong). Willis representatives confirmed that they were so notified at a time when Willis was unaware that they were even being considered for the position.

OSC's investigation into DRPA's selection and retention of Willis revealed that Willis later paid \$455,000 of its DRPA-originated commissions to Conner Strong and a related insurance broker between 2003 and 2009. Willis and Conner Strong provided OSC with contradictory reasons for these payments, which never were formally disclosed to DRPA. OSC's specific findings in this regard include the following:

- Willis told OSC that it paid Conner Strong and the other broker as instructed by Conner Strong as a "referral fee" in consideration of the efforts made by Conner Strong to obtain DRPA business for Willis;
- Conversely, Conner Strong told OSC that these payments had nothing to do with Willis' work for DRPA, though the majority of contemporaneous documentation and witness statements weigh against that assertion; and
- The lack of transparency regarding these third-party payments limited DRPA's ability to analyze whether there was a more cost-effective manner to obtain broker services, such as through utilizing a competitive procurement process that would have made such referral payments unnecessary or through contracting with its insurance broker for a lower fixed fee.

In the course of investigating the true-up, OSC also discovered that Graham was sharing its DRPA-originated commissions with another insurance broker, the West Insurance Agency (West), under questionable and ambiguous circumstances. OSC's findings in this regard include the following:

- Graham paid West \$684,254 of DRPA-originated commissions between 2000 and 2010, purportedly as compensation for work as a designated Minority Owned Business Enterprise/Disadvantaged Business Enterprise;
- While Graham stated to us that such payments were required and directed by DRPA, DRPA stated to us that this was not the case;
- Graham and West are unable to document or identify what services West actually performed for the \$684,254 it received in DRPA-derived commissions; and
- DRPA knew, at least as of 2006, that Graham was making payments to West in connection with DRPA's insurance program. These payments should have been monitored and analyzed to determine whether DRPA could have eliminated these unnecessary payments in order to save tollpayer funds.

In total, more than \$1.5 million in commissions derived from the placement of DRPA's insurance policies was shared among insurance brokers without written agreements outlining the services to be performed or the benefit to DRPA. In some cases, DRPA-derived commissions were shared without formal disclosure to DRPA and regardless of whether the broker actually provided services to DRPA or anyone else in return for the commissions. Because commission payments are borne by the insured as part of the insurance premium, it is important that such arrangements be made transparent to the insured public agency so that it can ensure it is receiving the most cost-effective brokerage services, thereby protecting and preserving public funds.

To its credit, in 2010 DRPA initiated a competitive procurement process for insurance brokers for the first time since 1996. Although OSC's review of that process revealed deficiencies, DRPA has since further updated its procurement policies and procedures and modified its methodology for broker compensation. In short, DRPA has implemented a fixed-fee, no-commission competitive procurement process for the selection of its insurance brokers, and has stated to OSC that "the public can be assured that any practice of fee-splitting by insurance brokers will be prohibited." Abiding by this process should be financially beneficial to DRPA and the toll-paying public.

Economic Development

OSC's investigation further revealed that DRPA engaged in a program of regional "economic development" to the detriment of DRPA's financial standing and in direct competition with its primary responsibility to maintain its bridges and other capital facilities. As this \$440 million program progressed, significant policies and procedures related to the approval and monitoring of economic development projects were ignored. The resulting informal

selection process raises questions as to whether selected projects were properly and objectively vetted. OSC's specific findings include the following:

- DRPA's charter mandated that DRPA-funded economic development should proceed only with "funds available after appropriate allocation for maintenance of bridge and other capital facilities";
- DRPA did not have such surplus funds so DRPA incurred significant debt, through the issuance of bonds, to engage in economic development projects, while ignoring a backlog of bridge and capital facility projects;
- All of the DRPA economic development projects reviewed by OSC had incomplete or missing application and approval documentation, and many projects were approved by DRPA with little or no requisite due diligence, in contravention of stated DRPA policies and procedures;
- Although DRPA policy called for the monitoring of ongoing economic development projects to be accomplished, in part, through the submission of quarterly reports to the DRPA Board of Commissioners, quarterly reporting ceased prior to 2004 due to lack of board interest;
- Despite a recommendation from a financial advisor in 1996 to avoid outright grants and favor economic development loans, DRPA, over time, shifted from a loan-based program to a grant-based program, which not only led to decreased financial return to DRPA but also to less oversight and scrutiny of approved projects; and
- In contravention of its charter, DRPA has failed to update its Master Plan for economic development projects since 2005, thereby depriving the public of notice and comment concerning the more than \$100 million expended on such projects since that time.

Social and Civic Sponsorship Fund

DRPA transferred some of its economic development funds to a "Social and Civic Sponsorship Fund" (Fund) created by DRPA in 2004. The stated purpose of the Fund was to "provide funding . . . for regional social service and civic organizations and [for] sponsorship of corresponding events." OSC's investigation revealed that the expenditures from this Fund did not comply with DRPA's stated policies and procedures. OSC's findings include the following:

- DRPA did not use objective criteria to determine whether a particular contribution would be a reasonable and appropriate expenditure of tollpayer funds;

- Expenditures were approved in an informal manner and little, if any, requisite information was actually provided by the beneficiary;
- The majority of funds went to organizations linked to DRPA commissioners and executive employees; and
- The funds largely went to organizations that provided a personal benefit to DRPA officials in exchange for a contribution (*e.g.*, tickets to galas, dinners and sporting events).

DRPA E-ZPass Benefits

OSC also reviewed DRPA's policies and procedures related to free bridge passage provided to DRPA employees. OSC's investigation revealed that the free bridge passage program resulted in a substantial loss of revenue to DRPA, and that the absence of appropriate policies and procedures resulted in waste and mismanagement. OSC's specific findings include the following:

- The free bridge passage program, which has been in existence since the 1950s, resulted in the loss to DRPA of more than \$1 million in revenue over the past ten years;
- DRPA's program awarding unlimited free passage to past and present DRPA commissioners did not have any corresponding policies and procedures, which led to significant abuses such as the inclusion of commissioners' friends and relatives in the program; and
- Due to a lack of policies, procedures and oversight, more than 50 random individuals with no affiliation to DRPA mistakenly were granted unlimited free passage over DRPA bridges as DRPA employees from 2003 to 2008.

Reimbursed Business Expenditures

OSC also examined DRPA credit card usage and business expense reimbursements from 2003 through 2010. DRPA's pre-2010 policies and procedures permitted excessive spending. Inappropriate expenditures included a more than \$2,000 charge for a Commissioners Dinner at the Pennsauken Country Club and a more than \$2,000 charge for two DRPA employees to attend an event unrelated to DRPA business at The Waldorf-Astoria hotel in New York City. Although DRPA recently has updated and more rigorously applied its reimbursement policies and

procedures, these policies still are not consistent with those that apply to State of New Jersey employees.

Background and Methodology

DRPA is a bi-state public entity created through an agreement between the Commonwealth of Pennsylvania and the State of New Jersey with the consent of the United States Congress. DRPA owns and operates the Benjamin Franklin, Walt Whitman, Commodore Barry and Betsy Ross bridges, each of which span the Delaware River. Through its subsidiary, the Port Authority Transit Corporation (PATCO), DRPA also owns and operates a high-speed rail system between Philadelphia, Pennsylvania and Lindenwold, New Jersey.

DRPA is governed by a 16-member Board of Commissioners (Board), each of whom serve five-year terms without compensation. Eight of the 16 commissioners are appointed by the Governor of New Jersey with the advice and consent of the New Jersey State Senate. Six members are appointed by the Governor of Pennsylvania and the remaining two members are Pennsylvania state officials serving in an *ex officio* capacity. The commissioners elect a chair and vice chair (each of whom must be from different states), adopt bylaws, establish policies and procedures for DRPA, and appoint DRPA's chief executive officer (CEO) who is charged with implementing DRPA's policies and managing DRPA's operations.

The minutes of each DRPA Board meeting, which memorialize all actions taken by the Board, must be delivered to the Governor of New Jersey for review after the Board meeting. If the New Jersey Governor sends the minutes back vetoing an action of the Board, that action shall be considered null and void.

On July 29, 2010, the Governor of New Jersey and the then-Governor of Pennsylvania sent separate letters to DRPA calling for a series of reform measures at the agency, including a review of DRPA's operations by OSC. In August 2010, the DRPA Board formally invited OSC to undertake such an inquiry. Then, in September 2010, following public revelation of aspects of

the true-up insurance arrangement, New Jersey Governor Chris Christie vetoed a DRPA Board action to hire a law firm to conduct an inquiry into that issue. He requested that all DRPA documents relevant to the true-up instead be transferred to OSC for a full and thorough review.

OSC ultimately examined multiple aspects of DRPA's operations including DRPA's selection and use of insurance brokers, its economic development program, employee E-ZPass benefits, the Fund, and use of DRPA credit cards and reimbursement of other employee business expenses. OSC requested and reviewed correspondence, policies and procedures, and other documents from DRPA and other entities and individuals with knowledge of, or involvement with, these areas of inquiry. OSC also interviewed more than 50 current and former DRPA employees and commissioners as well as other individuals.

A number of individuals are identified by name in this report. For the reader's ease of reference we set forth the relevant titles of these individuals below:

Delaware River Port Authority

- **John Estey** served as DRPA Chair-designee for many, but not all, DRPA Board meetings from 2004 to 2009 and was the DRPA Chair from 2009 to January 2011.
- **Jeffrey Nash** has been the DRPA Vice Chair since 2002.
- **John Matheussen** has been the CEO of DRPA since 2003.
- **Robert Gross** has been the Deputy CEO of DRPA since 2003.
- **Michael Joyce** was employed by DRPA as Deputy General Counsel from 2004 to 2009 and as Director of Public Safety from 2009 to 2010.
- **Marc Woolley** was employed by DRPA as Assistant to the Chair from 2004 to 2008.
- **Mary Rita D'Alessandro** was employed by DRPA as Assistant to the Chair from 2008 to 2010.
- **Robert Bogle** was a DRPA Commissioner from 1997 to 2011.
- **Kenneth Trujillo** was a DRPA Commissioner from 2005 to 2009.

- **Manuel Stamatakis** was the DRPA Chair from 1996 to February 2003 and was a DRPA Commissioner from February 2003 through October 2003.
- **Robert Potamkin** was a DRPA Commissioner from 1976 to 1980.

Willis Group Holdings

- **Joseph Plumeri** has been the Chairman and CEO of Willis Group Holdings since 2000.
- **Todd Jones** was the National Partner for the Northeast Region of Willis North America from 2007 to 2010 and currently is the President of Willis North America.
- **Kevin Walsh** was the CEO of Willis New Jersey from 2002 to 2008.

Conner Strong & Buckelew

- **George Norcross** was the Chairman of the Board and CEO of Commerce Insurance Services and is now the Executive Chairman of Conner Strong & Buckelew. In January 2008, Commerce Insurance Services separated from Commerce Bank and became Conner Strong, which later became Conner Strong & Buckelew.
- **Edward Kiessler** was the Chief Operating Officer of Commerce Insurance Services from 2000 to 2006.

Michael Martucci

- **Michael Martucci** is a self-employed insurance broker.

The Graham Company

- **William Graham** is the owner of The Graham Company.
- **Michael Tiagwad** was the President of The Graham Company from approximately 1998 to 2005.

West Insurance Agency

- **Kobie West** was the President and CEO of the West Insurance Agency from approximately 1994 until 2008.

We provided a draft copy of this report to each of the above individuals and entities. We received responses from nearly all of them. DRPA itself submitted a response that highlighted

the many reform measures that DRPA has implemented in recent years, as did other high-ranking DRPA officials. All of the responses we received were considered in preparing this final report and have been incorporated herein where appropriate.

Investigative Findings

I. Redistribution of Insurance Commissions

DRPA procures its insurance through the use of insurance brokers whose compensation ultimately is reflected in the insurance premiums paid by DRPA. Beginning in 2003, instead of using a number of different brokers, DRPA started exclusively utilizing Graham and Willis to procure its insurance. OSC found that from 2004 to 2009, Graham shared with Willis more than \$500,000 of commissions earned from DRPA policies placed by Graham, as the result of an informal DRPA-directed commission sharing arrangement referred to by the parties as the true-up. These annual true-up payments did not correspond to actual insurance brokerage services performed by Willis. Rather, they reflected DRPA's directive to the Pennsylvania-based Graham and the New Jersey-based Willis to allocate equally the commissions derived from the placement of DRPA's insurance policies, regardless of the actual services provided.

In addition to these true-up payments, Graham and Willis shared more than \$1 million in DRPA-based commissions with other insurance brokers under ambiguous circumstances that raise questions as to whether DRPA could have procured these services in a more cost-effective manner. Between 2003 and 2009, Willis paid \$455,000 of commissions earned through the placement of DRPA insurance to Conner Strong and another broker that Willis claims it paid in response to instructions from Conner Strong. Willis and Conner Strong do not agree on the reason for the payments. Willis, which was notified of its selection as a DRPA insurance broker by Conner Strong without having sought the position, stated that the payments were referral payments to Conner Strong for its efforts in obtaining the DRPA business for Willis. Conner Strong, on the other hand, takes the position that the payments had no connection whatsoever to DRPA, but instead reflect compensation for other marketing and referral efforts by Conner Strong. In any event, witness statements and contemporaneous documents make clear that

Willis, over the course of six years, provided almost a half million dollars of DRPA-derived commissions to these brokers.

Between 2000 and 2010, Graham also paid West \$684,254 in DRPA commissions. Graham stated to OSC that DRPA designated West as a Minority Owned Business Enterprise/ Disadvantaged Business Enterprise (MBE/DBE) to be utilized and compensated by Graham in connection with placing DRPA insurance. There are no DRPA records supporting the notion that West was required by DRPA to work with Graham or that West was considered by DRPA to be part of DRPA's MBE/DBE program. In addition, there is no evidence that anything close to \$684,254 worth of work was performed by West.

In response to our draft report, DRPA stated that the "public can be assured that any practice of fee-splitting by insurance brokers will be prohibited." Accordingly, DRPA indicated that it "is addressing deficiencies in insurance procurement and oversight by adopting a competitive procurement process and instituting a fixed-fee model that does not include percentage-based brokerage commissions." DRPA's failure to take this or other remedial action earlier constituted a lost opportunity for cost savings for the authority and for tollpayers.

A. DRPA's Selection of Willis and Graham

In seeking to understand the origins of the true-up arrangement between Willis and Graham, OSC sought information concerning DRPA's initial retention of these two brokers. Graham was selected pursuant to a 1996 DRPA Request for Proposals (RFP) and the appointment was approved formally by the DRPA Board. In contrast, OSC was unable to determine definitively how Willis was selected as a DRPA broker. The process used to appoint Willis was not memorialized by the Board and DRPA was unable to provide us with any documents or correspondence related to its selection of Willis.

The earliest available documentation of Willis' appointment as DRPA insurance broker is a December 30, 2002 e-mail from George Norcross, CEO of Conner Strong, to Willis CEO Joseph Plumeri. The e-mail stated:

Willis will be appointed co-broker of Record (50/50) effective January 1, 2003 for the DRPA. The other Broker is designated by Pennsylvania.

Willis confirmed to OSC that it was notified of its selection by Norcross. Neither Norcross nor Conner Strong formally work for DRPA, have the authority to appoint DRPA's insurance broker or have any official role in DRPA's decision-making process. Willis representatives further told OSC that they did not even know Willis was under consideration for the DRPA broker position until they were so notified by Norcross.

In an effort to understand why Willis would have been selected and notified of the appointment in this way, OSC interviewed Norcross. Norcross stated that at some point prior to the December 30, 2002 e-mail, someone from Governor James McGreevey's office had offered Norcross' insurance company the opportunity to be DRPA's New Jersey insurance broker. Norcross could not recall who that person was, but stated that it was not the Governor himself. Norcross stated that he declined the offer because he did not believe his company had the capacity to handle DRPA's insurance requirements at the time and because DRPA was too "high profile." Norcross explained that he did not want to risk bad publicity, noting that DRPA had been the subject of scandal in the 1980s and previously had been under investigation by the United States Attorney's Office. Norcross stated that working for DRPA would be too much of a "reputational risk."

Norcross told OSC that when he declined the offer from the Governor's office, he was asked by the Governor's office to recommend other brokers for the DRPA work. Norcross stated that he probably would have recommended Willis, among other brokers, to the Governor's

office, though he did not specifically recall. Norcross further stated that he did not know what specific actions were taken to appoint Willis and that he never spoke with anyone at DRPA about Willis as a potential insurance broker. Norcross acknowledged sending Willis the e-mail informing them of the appointment, explaining that he probably would have learned of Willis' appointment from someone at the Governor's office or DRPA. Norcross said he could not recall the identity of that person.

DRPA Vice Chairman Jeffrey Nash told OSC that shortly after Governor McGreevey took office in 2002, the new administration directed DRPA to appoint Willis as its New Jersey-designated insurance broker. Although Nash could not specifically recall the person from the Governor's office who had directed the appointment, he listed a series of officials from whom the directive might have come. Nash stated that DRPA had no input into the decision and had not even met with Willis representatives prior to the selection. Nash further told OSC that he did not speak with Norcross regarding the selection of Willis.

OSC contacted the above-referenced officials in Governor McGreevey's administration at the time of the decision to appoint Willis. None of those individuals recalled any specific conversation regarding the selection of Willis as DRPA's broker, nor did they recall any conversations with Norcross related to DRPA insurance brokerage services.

While it may not be entirely clear how, why or by whom Willis ultimately was selected as DRPA's insurance broker, it is clear, based on contemporaneous documents and OSC interviews of Willis officials, that Willis believed that Conner Strong took action to secure its appointment and compensated Conner Strong accordingly. That latter issue will be further addressed later in this report.

B. The True-Up Resulted in More than \$500,000 of DRPA Commissions Being Paid by Graham to Willis

1. The Origins of the True-Up: The Goal of Parity

DRPA Vice Chairman Nash informed OSC that DRPA was directed by Governor McGreevey's administration to divide DRPA insurance policies equally between insurance brokers from New Jersey and Pennsylvania. In an effort to corroborate that claim, OSC spoke to a number of senior officials working in the McGreevey administration during this time period. Though they generally agreed that achieving state-to-state parity within bi-state authorities was a frequent goal of the McGreevey administration, none recalled issuing any specific directives or guidance regarding DRPA's utilization of insurance brokers.

According to several DRPA officials, implementing the goal of parity between DRPA's insurance brokers first was discussed at a 2003 meeting between DRPA officials and DRPA outside legal counsel. As a result of the meeting, DRPA CEO John Matheussen asked DRPA staff to draft a memorandum outlining how a 50/50 split of commissions between DRPA's Pennsylvania and New Jersey brokers could be achieved for 2003. The memorandum, prepared by DRPA staff in June 2003, recognized that Pennsylvania-based insurance brokers had been earning approximately 80 percent of the commissions generated from the various DRPA insurance policies, and set forth a plan to achieve "greater equity" among the brokers. Consistent with that memorandum, in late 2003 and early 2004, DRPA made Willis its broker of record for a number of insurance policies that previously had been brokered by other, primarily Pennsylvania-based companies.

The memorandum further called for Graham and Willis ultimately to partner together and act as co-brokers on all of the policies going forward, rather than divide them up. This co-

brokering arrangement anticipated for 2004 and subsequent years, however, did not materialize.

An internal Graham e-mail succinctly explained Graham's objections to co-brokering:

This whole idea of cobrokering is not appealing to me. I'd rather take care of our stuff and they do the same with theirs and we can whack up the \$.

Ultimately, the co-brokering plan thus evolved into the true-up reconciliation process. As noted by DRPA Deputy General Counsel Michael Joyce in a later 2006 e-mail to a Willis employee discussing the origination of the commission sharing arrangement, "It was my understanding . . . that . . . DRPA was not concerned with how each insurance consultant (either Graham or Willis) ultimately split the fees that were earned, [but just that] all commissions derived from placing DRPA's insurance were equally distributed between Graham and Willis." The process to be followed was memorialized in an e-mail from Graham's president to a senior official at Willis on December 23, 2003:

I thought it made sense to pass along some additional thoughts as I have had several conversations with [DRPA's Director of Risk Management] on this particular subject. As I understand it, the objective here is for each of us to "split the business" at the DRPA. The method described to me was for us to continue handling what we have for years and for Willis to replace a variety of brokers on the balance. In the event that there is a disparity in the revenue earned by each firm, reconciliation would take place. As things stood around 11/1, it looked like we would be the ones earning more, thus we would compensate you. Initially, a 'co-brokerage' arrangement was discussed, but for several reasons the above was concluded to be a better option.

Graham made the first true-up payment to Willis in April 2004 for \$119,888. As shown below, each year from 2004 forward, Graham earned more in DRPA commissions than Willis, but true-up payments by Graham to Willis resulted in each broker ultimately receiving the same amount of adjusted commissions:

Table 1: Commissions Before True-Up

Broker	2004	2005	2006	2007	2008	Total
Graham	\$797,790	\$551,846	\$560,235	\$519,813	\$620,625	\$3,050,309
Willis	\$340,601	\$373,354	\$423,334	\$391,667	\$492,294	\$2,021,250

Table 2: True-Up Payments by Graham to Willis

2004	2005	2006	2007	2008	2009	Total
\$119,888 (partial for 2004)	No Payment	\$197,953 (for 2004 and 2005)	\$68,450 (for 2006)	\$64,073 (for 2007)	\$64,166 (for 2008)	\$514,530

Table 3: Adjusted Commissions After True-Up Payments

Broker	2004	2005	2006	2007	2008	Total
Graham	\$569,196	\$462,600	\$491,785	\$455,740	\$556,459	\$2,535,780
Willis	\$569,195	\$462,600	\$491,785	\$455,740	\$556,460	\$2,535,780

2. DRPA Representatives Facilitated the True-Up

Senior DRPA officials had taken the position with OSC and in media accounts that the true-up was an arrangement solely between DRPA's insurance brokers. However, contemporaneous documents and witness statements reveal that DRPA representatives actively were engaged in the redistribution of commission payments between Graham and Willis. As discussed above, DRPA officials were aware of and involved in the origination of the true-up. Similarly, Michael Joyce acknowledged his ongoing involvement to OSC, which, according to Joyce, began after he received a call from a Willis representative in 2006 concerning difficulty Willis was having collecting the true-up "fee" from Graham. An example of Joyce's involvement is documented in a May 2006 letter from Willis of New Jersey CEO Kevin Walsh to William Graham, in which Walsh stated:

At a meeting yesterday with the DRPA, Michael E. Joyce, Deputy General Counsel, gave [a Willis employee] a Schedule of Commissions for Graham and Willis and asked [the employee] why we had not been paid by Graham.

Joyce similarly acknowledged in a May 2006 e-mail to Vice Chairman Nash and CEO Matheussen that the true-up had occurred “at the DRPA’s direction.”

Additionally, Willis acknowledged DRPA’s active role in the true-up process when Joyce and DRPA were asked by Willis to clarify, and ultimately decide, whether Graham should deduct from its true-up obligation payments that Graham had made to West in connection with placing DRPA’s insurance. As Willis stated in a September 2006 letter to Graham and DRPA representatives:

Willis doesn’t agree or disagree with the Disadvantaged Business Enterprise (DBE) issue. This issue should be determined by the Delaware River Port Authority.

Ultimately, Graham’s payments made to West (discussed more fully below) were deducted from the true-up calculation.

In response to our draft report, Willis reiterated that “[t]he ‘true-up,’ though not customary in the insurance industry, was an arrangement dictated to the brokers by the DRPA.”

3. Newly Appointed Staff Questions the True-Up

Graham continued to make true-up payments to Willis through 2009. In 2009, Graham complained about its true-up obligations to Mary Rita D’Alessandro, who had joined DRPA as Assistant to Chairman John Estey in November 2008. The following e-mail from William Graham to D’Alessandro demonstrates Graham’s displeasure with continuing to send Willis commissions for work that Willis did not perform:

I thought that I would let you know that Willis is trying to get money out of us, so that the New Jersey Insurance Broker gets an identical amount of money as the PA. (sic)

Insurance Broker, even though we do a lot more work, and place and service a much more difficult and complex insurance program.

D'Alessandro told OSC that she became concerned with the true-up arrangement, sought guidance on the matter from others at DRPA and ultimately was called to a meeting in September 2009 to discuss the issue. Internal DRPA documents confirm that such a meeting was scheduled, with attendees to include D'Alessandro, Matheussen, Joyce and DRPA's Deputy CEO Robert Gross. The electronic meeting notice stated that "[t]his issue was resolved back in 2006-2007, but has reared its head again."

D'Alessandro told OSC that when she questioned the true-up arrangement at the meeting, she was told that she did not want to get in the middle of the issue because it went "further above your head than you know." A 2010 e-mail from D'Alessandro to one of DRPA's commissioners corroborates what D'Alessandro told OSC investigators, particularly regarding her frustration with being dissuaded from pursuing the issue:

I have been beating this drum with Matheussen, Joyce and Gross 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***in mob or somethin'.

DRPA officials, including CEO Matheussen and Deputy CEO Gross, acknowledged speaking with D'Alessandro about the true-up and that Graham had objections to the true-up, but told us that they did not remember a specific meeting along the lines of the one described by D'Alessandro. No one other than D'Alessandro stated that they remembered the conversations related to the true-up as confrontational, recalling them more as part of an informational dialogue at regularly scheduled meetings of upper management.

No further true-up payments occurred after the payments led to questions from members of DRPA's Board, as well as the public, in the summer of 2010. The growing public criticism ultimately led to the request for a full and thorough review of the matter by OSC.

* * *

The true-up payments from Graham to Willis, which did not correspond with actual brokerage services, related purely to the directive for bi-state parity and reflect a focus on redistributing as opposed to saving tollpayer funds. After being made aware that Graham was willing to, and in fact did, perform services for reduced compensation, DRPA could have taken action to determine whether there were more cost-effective methods to procure its insurance. For example, DRPA could have attempted to enter into a fixed-fee agreement for the reduced compensation Graham apparently was willing to accept as opposed to the percentage-based commission compensation it was receiving and sharing with Willis. Such an arrangement would have transferred the benefit of Graham's willingness to work for reduced compensation to tollpayers as opposed to another DRPA vendor.

C. More than \$1 Million of DRPA-Derived Commissions Was Paid to Third-Party Insurance Brokers

In addition to the \$514,530 in commission payments redistributed from Graham to Willis, OSC discovered during the course of the true-up investigation that Willis and Graham sent more than \$1 million in DRPA-originated commissions to other insurance brokers. Specifically, Willis made payments to Conner Strong and a related broker named Michael Martucci in the amount of \$455,000, and Graham made payments to West in the amount of \$684,254. As discussed below, OSC has not been able to determine definitively the rationale for these payments because the involved parties either professed no knowledge of them, had a limited recollection of them and/or provided conflicting explanations and rationales for the payments.

Moreover, these arrangements were not documented in any written agreement, nor were they formally disclosed to DRPA. This lack of transparency denied DRPA the opportunity to analyze whether it could have achieved a more financially beneficial arrangement with its brokers that reflected compensation only for work actually performed for or on behalf of DRPA.

Table 4 and Table 5 set forth the payments of DRPA-derived commissions to these third-party brokers:

Table 4: Payments by Willis to Conner Strong/Martucci

2003	2004	2005	2006	2007	2008	2009	Total
\$25,000 (to Martucci)	\$90,000 (\$20,000 to Martucci; \$70,000 to Conner Strong)	No Payment	\$85,000 (to Conner Strong)	\$85,000 (to Conner Strong)	\$85,000 (to Conner Strong)	\$85,000 (to Conner Strong)	\$455,000

Table 5: Payments by Graham to West

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
\$85,626	\$60,000	\$54,336	\$60,000	\$60,377	\$100,376	\$61,373	\$40,188	\$60,000	\$60,000	\$41,978	\$684,254

The circumstances surrounding these payments are set forth below.

1. Willis Paid Conner Strong/Martucci \$455,000

Both Willis and Conner Strong agree that Willis paid Conner Strong \$410,000 over the course of six years and paid Michael Martucci \$45,000 over the course of two years. Willis attributes the payments to Conner Strong's efforts in securing the DRPA business for Willis. In contrast, Conner Strong takes the position that the payments to Conner Strong were attributable to general marketing and referral efforts and had nothing to do with DRPA.

a. Willis' Position: The Payments Were in Consideration of Conner Strong's Referral of Willis to DRPA

According to Willis, these payments stemmed from an informal conversation that Willis CEO Plumeri had with Conner Strong CEO Norcross in approximately 2002, in which Norcross offered to Plumeri that if Norcross ever came across insurance business that Conner Strong could not handle, Norcross would refer it to Willis. Plumeri, in an interview with OSC, referred to the resulting arrangement as an "unofficial, oral marketing agreement." Plumeri told OSC that soon after that conversation with Norcross, he was informed by Norcross that Willis had been selected as a DRPA insurance broker. Plumeri did not know what specific actions Conner Strong took to obtain the DRPA business for Willis, or how Willis was selected. In fact, neither Plumeri nor anyone else OSC spoke with at Willis even knew that Willis was being considered for the position prior to being notified of its appointment. Plumeri told OSC that while he was aware that Willis began paying Conner Strong a "co-brokering or referral fee" for the DRPA business, he did not personally negotiate the specific amount of that compensation and instead delegated that responsibility to other Willis employees.

Documents provided by Willis and statements of Willis employees support Plumeri's representations that Willis' payments to Conner Strong were DRPA-related. For example, in a 2003 internal Willis e-mail discussing the status of "NJ State related new business," the CEO of Willis of New Jersey, Kevin Walsh, wrote to Willis CEO Plumeri, "I think you have a schedule of the actual placement from George Norcross on the DRPA to back up this summary. . . . [A]s of this time the only commission sharing with [Conner Strong] has been on the benefits for DRPA." Similarly, in a 2004 e-mail from one senior Willis official to another, the official stated, "I stopped by your office to let you know Ed Kiessling, Pres./COO of [Conner Strong] called this morning quite anxious over getting payed [sic] on DRPA"

Other Willis officials similarly stated to OSC that the payments were made in consideration of Conner Strong's efforts in obtaining the DRPA account for Willis. For example, Walsh told OSC that the payments to Conner Strong were based specifically upon the revenue Willis earned from the placement of DRPA insurance and that he negotiated the compensation for Conner Strong directly with Norcross and discussed with him the fee as it related to DRPA. Walsh also stated to OSC that he had five or six discussions with Edward Kiessling, the then-chief operating officer (COO) of Conner Strong, about the payments and, in each such discussion, Walsh and Kiessling referred to the payments as being DRPA-related.

The payment statements accompanying the Willis checks to Conner Strong further support Willis' position that the payments were related to DRPA and that Conner Strong was made aware that Willis viewed the payments as DRPA-related. For instance, the statement accompanying a 2007 \$85,000 check that Willis sent to Conner Strong included the following breakdown showing the payment as emanating from various specific DRPA insurance policies:



Willis
 26 Calumet Boulevard
 Nashville, TN 37214

CHECK NUMBER
40269
 CHECK DATE
07-JUN-2007

ACCOUNT NO.	PAYMENT DUE	POLICY	RENEWAL DATE	POLICY TYPE	DATE	AMOUNT
00324878	000060344 487314 Delaware River Port Authority	KH213 DRPA - MED	05/01/06 - 08/01/07	Policy Renewal	08/01/06	42,500.00
	000060348 487314 Delaware River Port Authority	DRPA - MED	01/01/06 - 01/01/07	Policy Renewal	01/01/06	10,905.77
	000060348 487314 Delaware River Port Authority	DRPA - MED	01/01/06 - 01/01/07	Policy Renewal	02/01/06	12,484.40
	000060347 487314 Delaware River Port Authority	DRPA - MED	01/01/06 - 01/01/07	Policy Renewal	03/01/06	4,128.83
	000060348 487314 Delaware River Port Authority	B184	01/01/06 - 01/01/07	New Policy	01/01/06	1,061.02
	000060349 487314 Delaware River Port Authority	B184	01/01/06 - 01/01/07	New Policy	02/01/06	1,918.86
	000060350 487314 Delaware River Port Authority	B184	01/01/06 - 01/01/07	New Policy	03/01/06	1,447.28
	000060351 487314 Delaware River Port Authority	B184	01/01/06 - 01/01/07	New Policy	04/01/06	572.76
	000060352 487314 Delaware River Port Authority	DRPA - MED	01/01/06 - 01/01/07	Policy Renewal	04/01/06	10,000.00
TOTAL						\$ 85,000.00

FOR QUESTIONS, CALL (815) 872-3433

Other Willis payment statements to Conner Strong provide similar DRPA-specific breakdowns.

b. Conner Strong's Position: The Payments Were Unrelated to DRPA

Conner Strong has taken the position that the Willis payments were unrelated to DRPA, but instead were attributable to other marketing and referral efforts it carried out on behalf of Willis. Specifically, its position is that the payments related solely to what CEO Norcross described as an unwritten “handshake” marketing referral agreement entered into between Plumeri and Norcross. According to Norcross, the agreement was entered into in 2004 and its purpose was threefold: to provide guidance to Plumeri; to promote Willis in New Jersey; and to maintain a dialogue about a future consolidation or merger of their firms. Unlike Plumeri, Norcross stated that the marketing referral agreement and the ensuing payments had nothing whatsoever to do with any referral involving DRPA. Norcross added that if he thought the payments were connected to Willis’ work at DRPA, he would have sent the money back to Willis.

According to Norcross, Conner Strong’s compensation for the marketing referral arrangement was negotiated by himself and Plumeri personally, and not with Willis staff as stated by Plumeri. Norcross also stated that the compensation amount came “out of space” and was not, as characterized by Willis and indicated in the payment statements provided to Conner Strong by Willis, related to the commissions received as a result of placing insurance for DRPA.

Conner Strong provided OSC with several documents in an attempt to demonstrate that Conner Strong considered the Willis payments to be compensation for the above-described marketing efforts and not DRPA-related. For instance, Conner Strong provided OSC with copies of the Willis payment statements that contained contemporaneous handwritten notations by Conner Strong employees that stated “Willis Marketing Fee”:

Willis
 c/o Nashville, Hwy Access
 26 Century Boulevard
 Nashville, TN 37214

CHECK NUMBER
423228
 CHECK DATE
13-JUN-2008

Vendor Number	Payment Number	Payment Description	DRPA Referral	Policy Description	Policy Dates	Amount
000328305	000068442	PAYMENT DUE 487314 Delaware River Port Authority	DRPA - MED 01/01/07 - 01/01/08	Policy Renewal	PR 01/31/07	42,500.00
	000068442	487314 Delaware River Port Authority	KH588 08/01/07 - 08/01/08	Policy Renewal	PR 08/31/07	42,500.00
<i>1.15000000 .70</i> <i>Willis Marketing Fee</i>						
TOTAL						\$ 85,000.00

As noted previously, the payment statements themselves also reference DRPA.

Conner Strong further provided OSC with documentation showing that the payments generally were recorded as a "Miscellaneous Receivable" or "Other Income" in Conner Strong's cash receipt register. Conner Strong representatives contended that the payments were not recorded as a DRPA-related referral payment or as income from any particular client because the payments related only to a general referral and marketing agreement with Willis. Conner Strong did not produce any documentation demonstrating any guidance it actually provided to Plumeri, any other promotion of Willis, any dialogue that occurred regarding a merger of the two firms or any other specific referral or marketing efforts it made on Willis' behalf.

Moreover, several internal Conner Strong documents directly reference DRPA in connection with the payments. For example, the Conner Strong cash receipt register included the

comment “Willis of New Jersey Inc. Delaware River Port Authority” in association with the 2007 \$85,000 payment from Willis. Similarly, payments recorded in Conner Strong’s “Direct Bill Commission Receipt Log of 2009” included reference to “DE River Port Auth” in connection with the Willis payments. Conner Strong’s representatives stated to OSC that these “comments on the cash receipt register simply reflect the general identification of the check by the clerk making the entry.”

In response to OSC’s draft report, Conner Strong argued that the timing of the Willis payments is more consistent with compensation for general marketing efforts than for a DRPA-related referral. Specifically, Conner Strong stated that if it “was receiving a referral fee from Willis for the DRPA, the payment would have begun in 2003” and that Conner Strong did not actually receive a payment from Willis until January 2005. However, Willis has stated to OSC that Willis in fact began paying the “flat annual referral fee” to Martucci in 2003 “at the direction of Conner Strong,” and then later began paying that referral fee directly to Conner Strong itself. Contemporaneous Willis e-mails similarly state that in late 2004, Conner Strong officials directed that these payments be sent to Conner Strong.

Conner Strong further contended that the termination of the payments after 2009 demonstrated that it had a marketing agreement with Willis that was unrelated to DRPA. That is, Conner Strong reasoned that if such payments were, in fact, based upon a referral to DRPA, Conner Strong “would not forego commissions for which it had reached an agreement on based upon business that it had referred to Willis” while Willis was still the DRPA broker. In contrast, Willis stated that it ceased paying the referral fees to Conner Strong because DRPA conducted a public, competitive selection process for insurance brokerage services in 2010, which eliminated the need for such referral payments.

Conner Strong also stated in its response that “the amounts paid by Willis to [Conner Strong] demonstrate that it was not commission-based.” That is, Conner Strong stated that had Willis been paying a DRPA-related referral fee, the amounts would have been higher, would have varied from year-to-year and would not have been a round number. In contrast, in its response to our draft report, Willis maintained that it paid Conner Strong a “flat referral fee” related to its DRPA business and that such “fee . . . was well within the industry standard referral fee range and did not fluctuate year to year, although Willis’ commissions did.”

In response to questions about the contrasting positions taken by the parties, Willis of New Jersey CEO Walsh seemed to shed some light on Conner Strong’s assertion that the payments were related to a general marketing and referral agreement and were not DRPA-related. Walsh stated that he and Norcross initially had discussed the payments with specific reference to DRPA, but then, at a later point in time (after several of the payments had been made to Martucci and Conner Strong), Norcross made clear to Walsh that Norcross would prefer that they refer to the payments in the context of what Norcross called the “North Jersey Marketing Agreement.” Along these lines, in a February 2007 internal Willis e-mail, Walsh noted that in January 2006 Norcross had called Walsh “looking for payment under the North Jersey Marketing agreement between Willis and [Conner Strong].” Walsh told OSC he did not know what the North Jersey Marketing Agreement was, nor did he know why Norcross preferred to refer to the payments in that way. He stated that it was irrelevant to him what the payments were called.

The current president of Willis North America, Todd Jones, became involved in the payments to Conner Strong in or around the spring of 2008. Jones told OSC that he understood that there was some type of referral agreement between Willis and Conner Strong as agreed to by

Plumeri and Norcross, and that Norcross referred to it as the North Jersey Marketing Agreement. Jones told OSC that he thought it was odd that Norcross called the arrangement by that name as there was only one item of business related to the agreement, which was DRPA. For his part, Willis CEO Plumeri told OSC that he has never heard of the North Jersey Marketing Agreement.

Ultimately, though Conner Strong provides contemporaneous documents to indicate that they accounted for the payments as if they were general marketing as opposed to DRPA referral payments, it is clear that Willis paid Conner Strong \$455,000 of DRPA-originated commissions and that Willis considered this to be a referral fee. As Willis stated in its response to our draft report,

Willis: (1) made such payments to Conner Strong and/or Mr. Martucci because Willis reasonably believed that Conner Strong and Mr. Martucci played a role in having Willis appointed as a broker for the DRPA and continuing to act as a broker for the DRPA; and (2) made such payments solely in connection with the DRPA account.

The contemporaneous documents provided by Willis and the interviews of Willis personnel support the notion that Willis considered these referral payments to be a cost of doing business with DRPA.

The disagreement between these two parties is itself cause for concern. Nearly a half million dollars of DRPA-derived funds were redistributed among private parties and the parties do not agree on the reason for the payments.

c. Conner Strong and Willis Disagree as to the Nature of the Payments to Martucci

As noted previously, Willis also paid a separate broker, Michael Martucci, \$45,000 of DRPA-related commission payments in 2003 and 2004 (\$25,000 in 2003 and \$20,000 in 2004). These checks were made out to “Michael Martucci C/O Edward Kiessling Commerce National

Insurance Services” and set forth Conner Strong’s address under Martucci’s name. Witnesses, including Martucci and Kiessling, provided conflicting and/or inadequate explanations concerning the circumstances of these payments.

Contemporaneous Willis documents indicate that Willis paid Martucci in response to instructions from Conner Strong. For example, a 2003 internal Willis e-mail from Willis of New Jersey CEO Walsh to Willis CEO Plumeri stated that “[a]t the request of Ed Kiessling of Commerce we issued a check to Michael Martucci for \$25k representing our annual commitment to them on this line.” Willis documents further indicate that Willis officials believed that Martucci had been involved with Conner Strong’s referral of Willis to DRPA. For example, in a June 2004 internal e-mail from Walsh to another Willis official, Walsh explains:

I spoke to George Norcross and Ed Kiessling today and agreed on \$85K per year for Michael Martucci, the producer that referred DRPA to Willis. The gross annual revenue is about \$500K so this represents 17% and I am fine with that.

In contrast, Norcross did not attribute the Martucci payments to any referral of Willis to DRPA. He thought instead that they may have been related to a question Norcross received from Walsh or another Willis official as to whether Willis might be required to use a minority-owned business enterprise or small business enterprise in connection with Willis’ work for DRPA, and, if so, whether Norcross could recommend one. Norcross informed OSC that he responded to Willis that there may be such a requirement and recommended Martucci who, according to Norcross, is an acquaintance of his wife and may be qualified as a small business enterprise. However, Walsh told OSC that he never had a conversation with any Conner Strong representative regarding minority or small business requirements for DRPA.

A voice mail message from Conner Strong COO Kiessling to Walsh in December 2003 sets forth yet another perspective on why Willis was directed to pay Martucci. The voice mail message was memorialized in Willis' files in typewritten form:

You wanted to know about Martucci and who this fellow was. He has no connection to us. He's a guy George knows but it's actually the governor's selection of the broker that he wants to co-broker this stuff with in New Jersey. I don't know anything more beyond that and so I figured I would just leave that to you but he doesn't get paid by us, he doesn't work for us. He's just a guy that does some work for the state. So, hopefully that answers your question about who he is. I'm sending an overnight mail with a listing of policies and when they come up for the DRPA. So, if you can respond to that, I think most of them have been assigned to you guys. . . . [G]ive me a call if you need anything else answered on Martucci

Walsh stated to OSC that this voice mail message came in response to a question from him to Conner Strong as to the identity of Martucci. He stated that he took the rare step of memorializing Kiessling's voice mail because it was unusual. That is, Walsh told us that it is not typical to pay a third-party broker who has no formal affiliation with the referring broker.

When confronted with the text of the voice mail, Kiessling told OSC that he had no recollection of leaving this message with anyone at Willis, that he did not remember Michael Martucci and that he did not recall ever speaking with anyone at Willis about payments to Martucci. Kiessling could not offer any details regarding the payments to Martucci, including those referenced in the above 2003 and 2004 internal Willis e-mails that reflect conversations between Walsh and Kiessling concerning the Martucci payments. When shown the two checks made out to "Michael Martucci C/O Edward Kiessling," Kiessling told OSC that he did not remember receiving the checks. Conner Strong's records do not reflect receipt of these checks

despite the fact that they bear Commerce/Conner Strong's address and were made payable "C/O Edward Kiessling."

OSC contacted Martucci directly to ask him about his relationship to Willis, Conner Strong and DRPA as well as the \$45,000 in payments from Willis. Martucci told OSC that he recalled receiving one or two commission checks from Willis that may have had a connection to the DRPA. When asked what services he performed in return for the payments, Martucci initially told OSC that he had no recollection of performing any such services. He stated, "I performed nothing." Later in the interview, after he was shown copies of the two checks, he stated that while he does not specifically remember anything he did to earn the commission payments from Willis, he must have "consulted" or "attended a meeting." He continued to deny performing substantive work for DRPA or Conner Strong, but recalled that the checks may have had some connection to DRPA. He could not recall any other details.

d. Willis Denied and DRPA Failed to Follow Up on Graham's Assertion that Willis Was Sending DRPA-Derived Commissions to Conner Strong

By 2006, William Graham of The Graham Company received information that Willis was sharing part of its DRPA-related commissions with another broker. Graham suspected that broker was Conner Strong. In a July 2006 e-mail to DRPA Assistant to the Chair Marc Woolley, William Graham stated that Kevin Walsh had told him that Willis had to pay another broker approximately \$200,000 out of Willis' DRPA-derived commissions and that:

This surprised me and I asked [Willis] if these payments were to a DBE. I was told "NO". It suddenly dawned on me that it is probably George Norcross, so I asked if it was just a "regular broker", and not a DBE? The answer was "yes".

I then said I guess that broker wants to remain anonymous? The answer was "definitely yes".

In a September 2006 letter to Willis and DRPA representatives, William Graham again mentioned his understanding that Willis was making payments to another broker to “encourage good will.” Graham raised the issue specifically in the context of negotiations over the true-up, stating that he would not permit an adjustment to the true-up amount based on any “voluntary payment to another insurance broker.” In response to this letter, a Willis representative inaccurately denied that those payments had been made. Specifically, in a September 2006 e-mail to DRPA representatives, which preceded his letter that same day to Graham making the same point, Kevin Walsh stated that it was “never suggested that we should deduct \$200,000 nor have we paid \$200,000 to another Brokerage firm.” In reality, Willis had paid \$200,000 to Conner Strong and Martucci as of the date of the inaccurate Walsh denial.

In an interview with OSC and in response to our draft report, Marc Woolley stated that he relied upon Walsh’s representations and did not further pursue the matter. Similarly, DRPA CEO Matheussen simply stated to OSC that he did not believe Graham’s assertions. In short, no one from DRPA told OSC that they had been aware of any actual payments from Willis to Conner Strong in connection with the placement of DRPA insurance. Matheussen further noted that if he had been aware that these payments had occurred, he would have inquired into the matter further to determine whether DRPA could have obtained its brokerage services at a lower cost if these brokers were not sharing in the compensation.

Walsh conceded to OSC that his September 2006 statement was not accurate as Willis had, in fact, already been making payments to Conner Strong. Walsh told OSC that he denied making the payments because he believed Graham inappropriately was relying on the issue in negotiating the true-up. Walsh explained that Willis had not requested any adjustment to the true-up based on the payments and that it was “none of Graham’s business.” In response to our

draft report, Willis elaborated on Walsh's point, explaining that it is not customary in the insurance industry to disclose to a competitor the source or the payment of such a referral fee. Willis further stated that Willis "reasonably assumed that the DRPA was aware of the referral arrangement since Willis was informed of its selection as the New Jersey broker for DRPA by Mr. Norcross, who was then the CEO of Conner Strong."

* * *

The lack of transparency on this issue, the misleading information provided by Willis, and DRPA's failure to further inquire into Graham's assertions all limited DRPA's ability to determine whether DRPA was receiving the most financially beneficial services from its brokers and whether there was a more cost-effective alternative in procuring its insurance. That is, had DRPA evaluated its broker compensation when Graham's allegations arose and initiated a competitive selection process for brokerage services, extraneous referral payments may well have been eliminated. Indeed, as Willis has noted to OSC, such referral payments are unnecessary in the context of a competitive, public procurement process.

Rather than rely upon competition to eliminate extraneous referral payments, DRPA also could have attempted to negotiate and contract for a lower fixed fee for brokerage services, that is, a fee that represented actual work performed on behalf of the authority. By not acting earlier, DRPA lost an opportunity for cost savings.

2. Graham Paid West \$684,254 Under Questionable Circumstances and for Little or No Verifiable Work

OSC also discovered while investigating the true-up that Graham paid the West Insurance Agency approximately \$684,254 in DRPA-related commissions under questionable circumstances and for performing little or no verifiable work.

a. Graham and DRPA Disagree as to Whether There Was a Requirement to Use West

William Graham of The Graham Company told OSC that DRPA required Graham to use West in connection with Graham's work on DRPA's Owner Controlled Insurance Program (OCIP), which pertains to insuring DRPA during construction or renovation of DRPA property. Graham made the same claim in a 2006 e-mail to Willis, in which he stated that "Bob Bogle (on the Board of the DRPA), and the Board of the DRPA, expects these commissions to be paid to the West Agency, or another selected MBE." Graham told OSC that he understood that this requirement was not negotiable.

Graham acknowledged, however, that he was not directly told by DRPA of any MBE/DBE requirement or that West was the designated MBE/DBE. Graham explained that he learned of those details from The Graham Company's former president, Michael Tiagwad. For his part, Tiagwad stated in response to our draft report that he "does not recollect whether he or Mr. Graham were the first to hear that Graham was to use West and pay West a percentage of commissions received." In any event, Graham reiterated in response to our draft report that his company "would not have paid these sums if it were not obligated to do so by the DRPA." Tiagwad similarly stated in his response that "the payments to West were made to satisfy conditions imposed by the DRPA."

DRPA officials interviewed by OSC either denied that there was, or did not recall specific details regarding, any requirement for The Graham Company to use West. Vice Chairman Nash told OSC that there was no DRPA requirement for Graham to use a MBE/DBE. CEO Matheussen told OSC that while DRPA encouraged and had goals concerning the use of MBE/DBEs such as West, DRPA did not direct Graham to use West. Similarly, DRPA Commissioner Bogle vehemently denied that he ever required Graham to hire West as had been

alleged in William Graham's 2006 e-mail. Bogle acknowledged that he was on West's Advisory Board, but told OSC that he learned only recently that West had performed work for Graham and that he was not involved in the matter. Kobie West, the then-president of West, similarly told OSC that he never discussed the matter with Commissioner Bogle. Kobie West further stated that he would assume that there was some DRPA requirement to hire a MBE/DBE, but did not know of any specific requirement for Graham to hire West.

DRPA's Office of Business Development & Equal Opportunity (OBD), which is the division of DRPA responsible for monitoring the selection, work and payment of MBE/DBE vendors as well as the achievement of DRPA's MBE/DBE goals, has no record of West working as an MBE/DBE with Graham on DRPA's insurance programs. As the OBD director specifically stated in a 2010 e-mail to the assistant to the DRPA chair:

If West Insurance was performing work for the Graham Company, in connection with DRPA's insurance program, that work was never reported to the Office of Business Development & Equal Opportunity. . . . We would have been pleased to include the dollars paid to West in our overall tally. I have searched every Year End Report dating back to 1996 . . . and can find no record of any work performed by West

b. The Value of West's Work Cannot Be Substantiated

In addition to the unclear circumstances surrounding West's retention as a broker, there is no evidence or documentation supporting the notion that West actually assisted with performing services on behalf of DRPA. Although William Graham confirmed that West was paid 20 percent of the commissions Graham received in connection with DRPA's OCIP work, Graham indicated that West did not perform any work on the OCIP, but simply paid a small amount of money for the printing of an OCIP-related manual concerning DRPA construction projects. Similarly, Michael Tiagwad, the former president of Graham, when asked whether

West earned everything it was paid, conceded to us (in what appears to be a substantial understatement): “probably not.” In response to our draft report, Tiagwad further stated that it did not appear that “the amount of money West received was necessarily commensurate with the number of hours worked by West” and that the compensation simply “appears to reflect the percentage of commissions the parties agreed to pay West.”

When asked what work West performed in return for the payments from Graham, Kobie West responded only that West “did everything that Bill Graham asked” and that West, in fact, wanted to do more for Graham. Kobie West could not provide any additional details.

Similarly, relevant documents obtained by OSC do not describe what services were performed by West in return for these payments. For example, the only West invoice that OSC was provided did not offer any details as to the actual work performed:

Description	Effective Date	Total
Delaware River Port Authority of PA and NJ Owner Controlled Insurance Program General Liability & Workers Compensation Insurance Earned Commissions March 7, 2010 Installment	03/07/2008 to 03/07/2012	\$60,000.00
Totals		\$60,000.00

In sum, the parties are unable to document or determine what services West performed for the \$684,254 it received in DRPA commissions.

D. Commission Sharing by Brokers Working for Public Entities Has Been Previously Criticized and Has Been Banned in New York

In New Jersey, it is legal and does not violate any state rule or regulation for licensed brokers to share insurance commissions. This practice has been criticized, however, in instances where insurance brokers working for public agencies share those commissions with other brokers that perform little or no work in return. Specifically, investigative bodies in both New Jersey and New York have reported the occurrence of abuse resulting from such commission sharing

arrangements and have offered recommendations designed to prevent such problems from occurring. Based on the findings outlined in this report and the potential for similar problems to occur at other government agencies, OSC recommends that insurance brokers be prohibited from sharing commissions or similar payments when working on behalf of public entities unless the payments are related to work actually performed and the arrangement is disclosed to the public entity and the appropriate regulatory agency.

In 1980, the New Jersey State Commission of Investigation (SCI) investigated and condemned the practice of insurance brokers working for New Jersey local government units splitting their commissions with other brokers. Specifically, the SCI found numerous examples of brokers being required to split commissions with “politically influential or subservient sub-brokers who returned the favor in the form of political contributions,” and that these other brokers “generally provided no professional services for their commission shares.” State Commission of Investigation, *Purchase and Administration of Public Insurance Programs* (1980), at 2. As a result of its investigation, the SCI recommended to the New Jersey Department of Insurance that it prohibit brokers from sharing commissions with other brokers on a government insurance account “unless such sharing brokers are required by written agreement to render specific services and actually perform such required services.” *Id.* The SCI further recommended that a violation of that prohibition should be a crime of the fourth degree. These recommendations were not adopted and there are currently no such rules or regulations in New Jersey.

The New York State Temporary Commission of Investigation similarly reviewed the practice of commission sharing among insurance brokers servicing public entities. The commission condemned the practice. Its investigation found that commissions were being

shared with other brokers “at the specific direction of the political party in power to perpetuate its own interests” and that these brokers had performed few or no actual insurance services in return for the commissions. Temporary Commission of Investigation of the State of New York, *Insurance Commissions and Party Politics I* (1977), at 2. In noting that “[t]he payment of commissions to non-working insurance brokers is in our view unacceptable,” the commission found the practice “wasteful” and concluded that “it is the obligation of all responsible State and local government officials to review their insurance programs and explore lower cost options.” Temporary Commission of Investigation of the State of New York, *Insurance Commissions and Party Politics III* (1979), at 3, 36.

In response to that investigation, in 1984 New York banned the sharing of commissions in connection with insurance placed for a state entity unless the receiving broker “actually placed insurance coverages on behalf of or rendered insurance services to” the entity. N.Y. Ins. Law § 2128(a). In such circumstances, New York also requires that the services rendered be disclosed to the state insurance department and the most senior official of the public entity involved. *Id.* at § 2128(b). According to the legislative history accompanying the New York statute, the law was necessary, in part, because “in the past State and municipal governments have paid commissions on their insurance coverage to brokers who performed little or no necessary services.” The legislative history further noted that the new law would hold public officials “more accountable to the taxpayer who ultimately pays for any wasteful expense.” A review of a sample of other states revealed that similar legislation has been enacted in Louisiana as well. *See* La. Rev. Stat. § 39:1632.

In response to our draft report, the New Jersey Department of Banking and Insurance (DOBI) stated that it “supports the concept of disclosure of commission sharing by producers

working for public entities.” DOBI noted, however, that statutory authority would be required for it to “impose a ban on commission sharing by producers securing coverage for public entities.” Similarly, in response to our draft report, DRPA Vice Chairman Jeffrey Nash stated that he “agree[s] with [OSC’s] Report, and would welcome and support, any State legislation that would require disclosure of any and all third-party contracts or other arrangements with vendors doing business with a public entity.”

E. DRPA Initiated a Competitive Selection Process for Insurance Brokers in 2010

During the course of OSC’s investigation, DRPA, in 2010, conducted a competitive procurement process for the selection of its insurance brokers. OSC reviewed the process to determine whether it addressed the above-discussed issues, particularly the problems associated with the commission sharing arrangements discussed in this report. DRPA’s procurement process ultimately did not include all of DRPA’s insurance programs because parts of the selection process were suspended pending the results of our investigation. In any event, OSC’s review revealed deficiencies in this 2010 procurement process, which generated only two qualified responses (from DRPA’s incumbent brokers) and resulted in Graham as broker for DRPA’s Bridge Property Damage & Loss of Revenue program (Bridge Insurance) and Willis as broker for DRPA’s Traditional Property and Casualty Insurance program, the same programs each broker had administered in the past. Later in 2010 and 2011 DRPA updated its procurement policies and procedures and modified how it will pay its insurance brokers. These modified procedures are discussed below.

1. The 2010 Procurement Process Was Deficient and Suggested a DRPA Preference for the Status Quo of Bi-State Parity

OSC's review of DRPA's selection of insurance brokers in 2010 revealed a deficient procurement process that appeared to favor the selection of Graham in order to maintain bi-state parity. Specifically, the decision by DRPA to select Graham as broker for DRPA's Bridge Insurance program was not in accord with recommendations made by DRPA's designated review committee (Review Committee). The Review Committee stated in a June 4, 2010 memorandum that Graham's proposals were "minimal" and would be "more expensive to DRPA" and, conversely, that Willis' proposals were "outstanding." In spite of the Review Committee's assessment, an unsigned June 25, 2010 internal DRPA memorandum recommended the selection of Graham as broker for DRPA's Bridge Insurance program. A subsequent October 1, 2010 Review Committee memorandum to CEO Matheussen reiterated the committee's initial assessment and specifically stated that the selection of Graham was "not entirely consistent with the recommendation of the review committee." The specific reasons for DRPA's ultimate deviation from the Review Committee's recommendation are not documented.

The apparent disregard of the Review Committee's analysis indicates a continuing DRPA preference for the status quo of bi-state parity, which, once again, acted to the detriment of tollpayers. That is, DRPA appeared to favor the selection of both Pennsylvania-based Graham and New Jersey-based Willis despite the Review Committee's assessment that Graham's proposal would be "more expensive to DRPA." It is this same emphasis on bi-state parity among vendors, at the expense of tollpayers, that led to the inefficient true-up arrangement described previously.

The 2010 procurement process also inappropriately limited the field of potential brokers and provided an unfair advantage to Graham. For example, DRPA allowed brokers only one

week to respond to its solicitation for proposals, which resulted in one of the world's largest insurance brokers declining to respond to the solicitation because it was not provided with sufficient time to prepare a response. Additionally, the assistant to the DRPA chair e-mailed a copy of the insurance broker solicitation documents to a Graham official for comments prior to publicly releasing it to other brokers. Such a practice gives an unfair advantage to the party receiving the advance notice.

2. DRPA Adopts New Procurement Policies and Procedures and a New Method to Compensate Insurance Brokers

Following the 2010 broker procurement, DRPA updated and amended its written procurement policies and procedures. Specifically, the Board adopted policies and procedures requiring a uniform review process for the selection of professional service providers that mirrors the process used by other independent state authorities in New Jersey. The changes address many of the deficiencies noted above. For example, the new procedures list several merit-based factors to be considered in the selection process, including cost. Additionally, the new policies provide for more extensive advertisement of proposed contracts. The new policies and procedures should increase the likelihood of a fair and competitive procurement process.

In 2011, as OSC's investigation was concluding, DRPA advertised another solicitation for insurance brokers. The solicitation provides that DRPA brokers no longer will be compensated with commissions as had been specified in the 2010 RFP, but instead will be paid a fixed fee for all work performed by the broker. The solicitation makes clear that DRPA reserves the right to "negotiate," "discuss details of" and "request written clarification" of the "final negotiated fixed annual service fee for Broker/Consultant services."

These changes in the way DRPA selects and pays its brokers should assist DRPA in better controlling the cost of insurance brokerage services. Several of the parties responding to

our draft report agreed. As noted earlier, DRPA itself stated that it is attempting to rectify “deficiencies in insurance procurement and oversight by adopting a competitive procurement process and instituting a fixed-fee model that does not include percentage-based brokerage commissions.” Similarly, Willis acknowledged that “public entities in New Jersey generally benefit from selecting their insurance brokers through the competitive public bidding (RFP) process,” which, according to Willis, “promotes efficiency, competitiveness and transparency in public contracting.”

Some responses to our draft report asserted that the commission sharing arrangements described in this report did not necessarily increase the cost of DRPA’s brokerage services. To clarify, OSC did not find that these arrangements necessarily increased the cost of brokerage services to DRPA beyond standard rates at that time, but instead found that these ancillary payments, which did not correlate to services actually performed, revealed a lost opportunity for savings. As confirmed by DOBI, DRPA could have sought to bargain for a lower rate for its brokerage services with its existing brokers in light of these ancillary payments or, as DRPA did in 2011, could have instituted a competitive fixed-fee procurement that eliminates commissions altogether in an attempt to obtain the most financially beneficial arrangement.

A recent publication by a New Jersey public interest group supports the conclusion that initiating a competitive procurement process resulting in the payment of a fixed brokerage fee by the insured (as opposed to commission-based compensation) has the potential to drive down insurance costs for a public entity. According to the Citizens Campaign, such a process has the added advantage of eliminating the perverse incentive created when a broker’s compensation increases as the cost of the insurance premiums increase. The Citizens Campaign based its conclusion on its finding that an insurance broker, when competing for business, “ha[s] the

ability to lower the costs of insurance to [a] public entity.” This, according to the Citizens Campaign, “is often accomplished when a broker agrees to accept a lower commission or other compensation.” The Citizens Campaign reported substantial savings by several New Jersey municipalities that shifted to selecting their brokers on such a competitive, fixed-fee basis.

While it has taken significant steps in the right direction, DRPA must remain diligent in ensuring that fees paid to its brokers represent compensation only for work actually performed for or on behalf of DRPA and the toll-paying public.

II. Economic Development

Over the last two decades, DRPA has engaged in a massive economic development campaign with money it did not have, and funded this campaign through a pattern of borrowing that was imprudent and detrimental to its financial standing. This course of borrowing also violated the terms and spirit of DRPA’s charter, which called for spending on economic development projects only with “funds available after appropriate allocation for maintenance of bridge and other capital facilities.”

Moreover, DRPA failed to follow its own policies and procedures in administering its economic development program. Its project application and approval process was informal, apparently relying in large part on personal relationships with individuals associated with DRPA. Similarly, DRPA’s project monitoring process did not properly safeguard DRPA’s economic investments. In addition, over the last ten years, DRPA shifted its economic development focus from awarding loans to outright grants, requiring and resulting in even less due diligence and oversight. Lastly, DRPA violated the terms of its charter by failing to update its Master Plan to include any new economic development projects since 2005, thereby depriving

the public of required notice of these projects and an opportunity to provide scrutiny and feedback.

A. DRPA’s Economic Development Program

The DRPA Compact (Compact) is the federally approved agreement between New Jersey and Pennsylvania creating DRPA and defining its powers and duties. In 1992, an amendment to the Compact provided DRPA with the authority to engage in economic development projects within the port district. Specifically, this amendment, set forth in Article I of the Compact, provided DRPA with the ability to undertake the “planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to, any facility of commerce or economic development activity.” The amendment expressly limited the source of DRPA economic development funding to “funds available after appropriate allocation for maintenance of bridge and other capital facilities.”

Article XII of the Compact requires DRPA to file with the Governors and Legislatures of New Jersey and Pennsylvania a “Master Plan” detailing potential and ongoing economic development projects. Article XII mandates that the plan set forth the general location and a description of each project, land use requirements, estimates of project costs and a schedule for project commencement. The Compact required that an initial Master Plan be filed not later than 1994, with updates to be completed thereafter to encompass any newly contemplated projects.

DRPA bylaws further required that all projects with a total cost of more than \$100,000 be presented to the Board for approval. Projects under \$50,000 required authorization of the CEO. Projects between \$50,000 and \$100,000 required authorization of the CEO, Chair and Vice Chair. The \$100,000 threshold for Board approval was reduced to \$25,000 in 2010.

In total, DRPA has expended almost a half billion dollars on economic development projects since the 1992 Compact amendment. The spending initially decreased after John Matheussen became DRPA’s CEO in 2003, yet, ironically, dramatically rose in 2008 once DRPA publicly proclaimed its intention to curtail such projects. In 2010, the Board passed a resolution ending the funding of any new economic development projects. Table 6 below sets forth the amount of DRPA’s economic development expenditures since 1997.

Table 6: DRPA Economic Development Spending by Year in Which Funding Was Approved

1997	\$15.2 million	2004	\$6.6 million
1998	\$65.8 million	2005	\$4.9 million
1999	\$101.2 million	2006	\$0.1 million
2000	\$64.4 million	2007	\$7.6 million
2001	\$81.9 million	2008	\$27.9 million
2002	\$14.6 million	2009	\$24.4 million
2003	\$28.3 million	2010	\$.05 million
Total: \$443 Million			

B. Expenditures on Economic Development Projects Occurred Despite the Lack of Available Funds

As noted above, the DRPA Compact expressly limits DRPA’s funding of economic development projects to “funds available after appropriate allocation for maintenance of bridge

and other capital facilities” (emphasis added). While some DRPA officials stated in response to our draft report that they never understood this language to require that appropriate capital expenses be paid before making economic development expenditures, the plain language of the clause itself permits no other logical reading.

During the relevant time periods, DRPA did not have such surplus funds available for economic development purposes. For example, a 2010 external DRPA audit report noted, “Prior to the 2008 fare increase, DRPA effectively had operated for several years in a financial situation that allowed funding for only the most critical or safety/security sensitive projects.” Additionally, the report found “a significant backlog of large and critical projects related to its infrastructure (the bridge facilities and PATCO), its functional and operational unit needs, and for DRPA/PATCO support systems and facilities.” Lastly, the report found “a significant decrease in capital expenditure for bridge and transit systems since 2002 due primarily to the unavailability of funds.”

Contrary to the language and intent of the Compact, DRPA responded to the absence of a surplus by taking on more debt to fund its economic development projects. Specifically, DRPA issued bonds in 1998 in the amount of \$84.7 million, in 1999 for \$272 million and in 2001 for \$159.6 million, totaling \$516.3 million.

According to the 2010 audit, DRPA’s financial difficulties resulted in a decline in capital expenditures on DRPA facilities of more than 52 percent from 2002 through 2008. Additionally, in 2003, DRPA expenses exceeded revenue, resulting in a mid-year ten percent operating budget cut, followed by other cuts to address a projected \$15 million shortfall in 2004. Nonetheless, throughout 2003 DRPA spent more than twice that shortfall amount on economic development

projects including, for example, the Fairmount Waterworks Interpretive Center, the Greater Philadelphia Film Office and the Cooper River Boathouse.

The current DRPA administration acknowledged to the Pennsylvania Senate Transportation Committee in September 2010 that upon their arrival in 2003 DRPA had a structural operating deficit of \$15 million and total debt exceeding \$1.1 billion. DRPA annual debt service payments were approximately \$100 million at that time and were expected to increase. Despite these difficulties and the absence of surplus funds, DRPA continued to fund economic development projects, spending more than \$150 million since 2003.

In interviews with OSC, DRPA officials themselves conveyed these same concerns. For example, the former director of DRPA's Internal Audit Department acknowledged his belief that taking on additional debt to fund economic development projects was inconsistent with the DRPA Compact. He advised OSC that he believed that the economic development funding itself should have been audited, but stated that he was advised by DRPA management that economic development was not an area they wanted the Internal Audit Department to review. The director was not able to provide additional detail concerning those conversations. CEO Matheussen similarly conceded that DRPA's economic development spending put the agency in a difficult financial position with regard to its level of debt and its ability to finance operations from existing revenues. Vice Chairman Nash emphasized in responding to our draft report, however, that at no time did DRPA postpone for the benefit of economic development efforts any project that involved public safety or security.

In sum, in borrowing to fund projects unrelated to the management of DRPA bridges and other capital assets, DRPA acted contrary to its own charter and weakened its financial position. As the Board itself noted in the 2010 resolution that terminated the economic development

program, “DRPA and PATCO have spent hundreds of millions of dollars on so-called ‘economic development’ projects, funds that could have been invested in the agencies’ own assets.”

C. DRPA Violated Master Plan Requirements

As noted above, Article XII of the Compact requires DRPA to file with the Governors and Legislatures of New Jersey and Pennsylvania a Master Plan that provides detailed information concerning each potential and ongoing economic development project. Prior to adopting such a Master Plan, DRPA is required to give written notice to the public, provide a reasonable opportunity for comment, and consult with and consider any recommendations from other government entities as well as the private sector. DRPA is empowered to modify any part of the Master Plan in the same form and manner as provided for in adopting the original plan.

This notification requirement is intended to provide all interested stakeholders with an opportunity to review projects DRPA seeks to undertake and make suggestions or express objections to specific projects or the overall economic development approach. Such feedback was designed to occur at the stage when DRPA was still only contemplating a project and could alter plans prior to unnecessary expenditures or detrimental reliance by outside parties.

DRPA issued its first Master Plan in 1996 and made annual updates to the Master Plan through 2005. However, no updates have been made to the plan since that time. A draft, revised Master Plan was authored in 2010, but to date has not been finalized or circulated for comment.

Throughout the course of its economic development program, DRPA had a stated standard operating procedure titled “Update to the DRPA Master Plan: The Plan and The Process,” which set forth 18 specific steps to be undertaken in completing the annual update to the Master Plan. Thus, in failing to complete any such updates since 2005, DRPA violated its own internal procedures in addition to the Compact itself.

Since the last Master Plan update in 2005, a significant number of economic development projects have been embarked upon without inclusion in the Master Plan. Approximately \$100 million of economic development spending has occurred and 32 separate projects have been approved by DRPA during that time. The public and interested parties have been denied the mandated notice as well as the opportunity to review and comment on these projects. As the DRPA Compact specifically states that “no project should be authorized if not included in the master plan,” the authorization and funding of these projects violated the federal Compact.

D. DRPA Failed To Follow its Own Policies and Procedures Concerning the Administration of its Economic Development Program

DRPA established but then failed to abide by detailed application, approval and monitoring policies concerning its economic development projects. Despite the creation of those policies, the program was run in an informal manner without appropriate procedural safeguards.

DRPA’s economic development program included four basic components: (1) a program under which DRPA provided loans to existing businesses for expansion, job creation, job retention and relocation purposes; (2) a program in which DRPA acted as developer, partner or equity-holder in commercial or industrial real estate development projects; (3) a program providing for a limited number of grants to not-for-profit entities for the purpose of economic development or to allow those entities to engage in real estate development projects; and (4) funding for start-up businesses with unique potential to benefit the port region.

In a document titled “Economic Development Program,” DRPA detailed the goals and principles of the program. In that document, DRPA recognized that the program “must, to the greatest extent possible, be self-supporting.” Therefore, DRPA policy provided that “economic development activities, must, if possible, provide for financial return to the DRPA.” DRPA also established program eligibility criteria. Specifically, to be eligible for funding a project had to

either satisfy particular economic criteria or be related to DRPA's core businesses involving the movement of passengers or freight or related waterfront activities. The economic criteria required an applicant to establish that one job would be created for every \$25,000 in DRPA funding, one job would be retained for every \$15,000 in funding, tax revenues would be created or DRPA would receive a financial return. Applicants were required to provide to DRPA job creation, tax revenue and financial return estimates.

In practice, the DRPA economic development program largely ignored these criteria and abandoned the commitment to "provide a financial return to DRPA."

1. DRPA Largely Ignored its Policies and Procedures Concerning the Application and Approval of Economic Development Projects

OSC interviews with DRPA employees revealed, and a review of the projects themselves confirmed, that DRPA largely ignored its own application and approval policies and procedures concerning its economic development projects.

DRPA required each entity seeking economic development funding to complete an Application for Funding. This nine-page application required the applicant to provide a description of the proposed project including the type of business to be funded, quantity and quality of jobs to be created/retained and the type of product/service to be offered. This description was to include information concerning project costs, timetable, amount of private investment and requested public funding commitment. The applicant was required to provide business tax returns and financial statements as well as personal tax returns and financial statements of the applicant's officers and owners.

The application review process required a staff member from DRPA's Economic Development Division to be designated as "project manager." The project manager was to oversee and monitor the funding application, perform a due diligence review and make a

recommendation as to whether to proceed with the project based on the above-mentioned criteria. Following a recommendation by the DRPA project manager and approval by an “Economic Development Review Committee,” a project would then be submitted to the Board for final approval.

Despite having established this detailed process, DRPA proceeded to ignore its own policies and spend its economic development funding in a far more informal and unregulated manner. DRPA failed to require a majority of applicants to furnish requisite financial information, including the number of jobs expected to be created/retained and the expected return on the DRPA investment. DRPA also failed to appoint a project manager or create an Economic Development Review Committee to evaluate projects and issue a recommendation to the DRPA Board. Such a process would have yielded a more independent assessment of the merits of each project absent political or personal considerations.

In interviews with OSC, management from DRPA’s Economic Development Division described the actual role of the division as merely determining whether sufficient financial information and all other requested paperwork had been provided for each project. The division did not assess the value or merits of a project because projects arrived before the division with all key decisions already having been made by the Board or the CEO, including whether to fund a project, how much funding to provide and whether the funding would be in the form of a loan or grant. In reality, the division had minimal input regarding the choice of projects, which often were submitted to the Board prior to any analysis or review by the division.

CEO Matheussen corroborated this information provided to OSC by DRPA’s economic development staff. He described the application process for economic development funding as “informal.” He stated that most projects were brought to DRPA’s attention by a DRPA

commissioner, the Governor's office in New Jersey or Pennsylvania or by some other state official. Our investigation revealed that this type of referral appears to have been a prerequisite to obtaining funding. In fact, Matheussen did not even know how a project could get evaluated and approved if it came from the general public. This application and approval process created an environment in which the Board could direct funding to politically favored entities without appropriate and mandated vetting or independent objective consideration.

Interviews with several former DRPA commissioners revealed a similar lack of oversight and screening by the Board itself, compounding the lack of vetting by the Economic Development Division. Once a project appeared before the Board, its approval and funding were assured, as not one commissioner could recall the Board disapproving any project that had been submitted to the Board for approval. The commissioners were able to provide little detail, if any, as to information and documentation provided to them prior to voting on the projects. They expressed a belief that all required screening and vetting of projects already had been performed by DRPA staff prior to the listing of a project on a Board meeting agenda. As noted above, in reality the staff had performed no such vetting.

A review of a sample subset of recent economic development projects confirms the unregulated and informal nature of the application process as described by CEO Matheussen. In a review of 23 projects, OSC did not find a single project that contained all required items. Several projects were missing grant or loan applications and numerous projects did not contain any materials substantiating the rationale for project selection.

For example, on February 18, 2009, DRPA issued a grant of \$3.5 million for the completion of the President's House commemorative site in Philadelphia, the location of the executive mansion of the first two Presidents of the United States. DRPA could not produce to

OSC any Application for Funding concerning this project. In addition, all documentation regarding the project is dated after the Board resolution approving the project, in direct contravention of DRPA policies and procedures. Thus, these documents would not have been in the possession of the Economic Development Division in time to make a funding recommendation, or in the possession of the commissioners when voting on the project. In addition, the project failed to satisfy the program criteria: the project was not related to DRPA's core business of operating bridges and the transit line, and the documentation does not contain any calculation or determination of jobs to be created or retained as a result of the project. The decision to fund the President's House was made absent the required documentation and without the required input and recommendation of the Economic Development Division.

Similarly, the Repaupo Creek Improvement Project received a \$3 million grant from DRPA in October 2009 for construction and repair of levees and floodgate facilities along the Repaupo Creek in southern New Jersey. The documentation for this project did not include an Application for Funding, nor did it include the requisite financial information from the grantee. Moreover, the documentation lacked information regarding a specific timetable for project completion. Similarly, there is no evidence of the assignment of a project manager or a recommendation by economic development staff. In sum, it is unclear how informed decisions to provide over \$6.5 million in grant funding for this and the President's House project were made.

2. DRPA Failed To Properly Monitor its Economic Development Projects

In addition to the application and approval deficiencies, OSC interviews and a review of contemporaneous documentation revealed that DRPA failed to monitor its economic

development projects in accordance with the requirements of its economic development program.

According to program requirements, if a project was approved the project manager was to “continue to monitor the project in terms of final negotiation settlement and disbursement, project commencement, on-going progress of project, budget monitoring, compliance obligations, re-payment terms, lateness or delinquency and any other matter pertaining to a funding agreement.” Additionally, the project manager was required to monitor the grantee’s continued compliance with job creation requirements.

In earlier years of the economic development program, the Economic Development Division prepared quarterly reports detailing the progress of each project. However, by 2004 DRPA staff stopped preparing and distributing progress reports to the Board and decreased its level of monitoring. Economic development staff stated to OSC that the reports were discontinued due to a lack of interest by the Board.

In addition to abandoning required project monitoring, DRPA apparently discouraged employees from scrutinizing or questioning economic development projects. For example, former DRPA employee Michael Joyce informed OSC that when he questioned the wisdom of DRPA investing in certain projects, he was generally admonished by DRPA executive management and commissioners. A DRPA economic development manager similarly told us that when he questioned details concerning economic development projects, he was told by upper management to “lay off.”

Not a single economic development project reviewed by OSC satisfied all or even most of the stated DRPA monitoring requirements. Most project files did not identify a project manager or contain any follow-up documentation concerning the period after the loan or grant

was issued. Few projects contained any evidence of actual monitoring or, for that matter, any memorialization or documentation regarding the progress of the project. DRPA did not monitor these “investments” it had made on behalf of the public, but instead treated its funding as if it were an outright gift.

3. Scrutiny and Oversight of the Economic Development Program Decreased Over Time

Over time, the DRPA’s scrutiny and oversight of its economic development program further decreased as the program transitioned from a loan-based program to a grant-based program.

a. DRPA Shifted from a Loan-Based Economic Development Program to a Grant-Based Program

DRPA’s Manager of Special Projects informed OSC, and a review of DRPA documentation confirmed, that in approximately 2001 DRPA’s economic development portfolio shifted from one generally based upon loans to one consisting almost exclusively of grants. A review of that documentation also revealed that DRPA’s grant files contained far less information pertaining to DRPA’s stated project criteria than the loan files had contained. According to the Manager of Special Projects, when DRPA economic development funds were issued in the form of loans, greater attention was paid to the ability of the applicant to repay the loan and produce sufficient collateral, and to the overall viability of the project. When DRPA shifted to issuing grants with no requirement of repayment, the screening of each project substantially diminished.

The conversion of the economic development program from loan-based to grant-based was inconsistent with the notion that the program was to be self-supporting and that funded projects should provide a financial return to DRPA. CEO Matheussen admitted to OSC that the move from a loan-based program to one featuring grants was “not fiscally prudent.”

Nonetheless, DRPA maintained this focus on grants during Matheussen's tenure as CEO. There is no documentation that memorializes or justifies why, as a general policy matter, DRPA opted to simply give public funds away in the form of grants when it had been obtaining a return on its loan investments.

DRPA's shift to a grant-based program is particularly questionable in light of the successful repayment of many of the DRPA loans. For example, on December 28, 2009, DRPA approved a resolution converting a \$700,000 revolving loan fund to a grant for a recreation complex in Pennsauken Township. The original revolving loan fund, which had been used over a period of years for road improvements, to purchase a commercial property and to refurbish a bakery had been repaid promptly with no loss to DRPA. The DRPA resolution effecting the conversion failed to set forth any rationale for the conversion. A DRPA spokesperson publicly stated at the time simply that DRPA "agreed to convert [money in the loan fund] into a grant as part of its strategy to get out of the economic development business and close out its economic development fund." In interviews with OSC, DRPA management was not able to elaborate on that explanation.

DRPA previously had been advised of the imprudence of awarding grants in lieu of loans and of engaging in projects unrelated to its core business. Specifically, in 1996, an external management review analyzed the use of DRPA economic development funds. The review found that DRPA "project initiatives lacked prudent fiscal planning and programming, and did not follow evaluation criteria." The review recommended that "given the Authority's fiscal constraints, DRPA should continue to avoid outright grants from its economic development program, and favor loan applications that provide a local match." Additionally, the review recommended that "DRPA should continue to avoid issuing grants for community

development/neighborhood improvement projects which are not directly related to the mission of the Authority.” Despite these warnings, DRPA, to its significant financial detriment, ultimately increased its reliance upon grants as opposed to loans and continued to fund projects not directly related to its underlying mission.

b. DRPA Increasingly Began To Use an Intermediary for the Selection and Funding of its Projects, Resulting in Decreased Oversight by DRPA

DRPA’s level of scrutiny and monitoring of its economic development projects further declined with its use of the Philadelphia Industrial Development Corporation (PIDC) as an intermediary to select and fund projects.

PIDC is a private, not-for-profit Pennsylvania corporation, founded in 1958 by the City of Philadelphia and the Greater Philadelphia Chamber of Commerce to promote economic development throughout the city. In 1994, DRPA approved a resolution through which it provided PIDC with \$7.6 million to issue loans to Philadelphia-area businesses for business development purposes. This created a revolving loan fund at PIDC. PIDC issued loans with the DRPA funds and as the loans were repaid, PIDC issued new loans.

In 2001, the arrangement between DRPA and PIDC changed from a revolving loan fund, requiring PIDC to issue loans, to one in which PIDC was permitted to issue grants. This resulted in DRPA twice re-capitalizing PIDC with a total of \$19.4 million, most recently through a \$12.9 million payment on December 9, 2009.

PIDC itself dictated the selection of the projects and administered the DRPA funds. This autonomy on the part of PIDC led to increasingly reduced monitoring by DRPA of its economic development spending. For the PIDC portion of that funding, DRPA’s economic development spending became akin to a block grant. This contradicted stated DRPA policies providing that the program would be self-supporting and provide a financial return to DRPA.

E. DRPA Terminated Its Economic Development Program in 2010

On August 20, 2008, DRPA passed Resolution 08-064, commonly cited by DRPA representatives as the resolution that ended DRPA's practice of funding economic development projects. According to the resolution, "[N]o proceeds from any change in the DRPA Bridge Toll Schedule including any proceeds from cost of living increases adopted as part of this Resolution shall be used for Regional Economic Development purposes." This resolution did not accomplish its publicly stated goal, as it precluded DRPA from using revenue from toll increases for economic development projects, but permitted all other toll revenue to be used for those projects. Ultimately, in 2010, pursuant to Resolution 10-062, DRPA ended its economic development program following increasing public criticism. This resolution prevents the Board from spending funds for projects not directly connected to DRPA's bridges and train line, although a final round of economic development funding was later approved by the Board in December 2011. Since ending its economic development funding, DRPA management has publicly conceded that DRPA had "funded many questionable projects."

Ending economic development spending is a significant step towards DRPA refocusing on its core business. As OSC's investigation found, DRPA violated its charter and its own internal policies, weakened its financial position, delayed infrastructure spending and was forced to raise tolls before taking this step.

III. Social and Civic Sponsorship Fund

DRPA also used a portion of its economic development funding to establish a "Social and Civic Sponsorship Fund." An examination of Fund expenditures reveals that the vast majority of these expenditures went to organizations linked to individual DRPA commissioners or executive employees or to organizations that provided a personal benefit (*e.g.*, tickets to galas, dinners and sporting events) to DRPA officials in exchange for the DRPA contribution. Moreover, the

majority of funding was spent without proper documentation to support the expenditure. As with DRPA's economic development grants, social and civic funding was approved in an informal manner and DRPA required only minimal information from the beneficiary.

DRPA established the Fund in 2004. The Fund initially was capitalized using \$250,000 of economic development funds that had been dedicated for New Jersey projects and \$250,000 that had been dedicated for Pennsylvania projects. An additional \$100,000 of economic development funding was added to the Fund in 2008 and again in 2009, bringing total funding since 2004 to \$700,000. According to DRPA Resolution 04-36, the purpose of the Fund was to "provide funding . . . for regional social service and civic organizations and [for] sponsorship of corresponding events." This broad definition permitted DRPA to fund a broad range of events and organizations.

DRPA created a Community Giving Fund Application to be completed by Fund applicants. Applications were to be reviewed by the DRPA "Sponsorship Committee." The application called for a description of how the requested funds would be used, the desired outcome of the expenditure, a list of the requesting organization's board members, the organization's most recent financial statements and a description of other projects at the organization funded by DRPA. The DRPA Chair and Vice Chair made the final decisions on funding allocations. The Board itself did not vote on the allocations.

A. Organizations with Ties to DRPA and Those that Provided a Benefit in Exchange for Contributions Received the Vast Majority of the Funding

A review of all Fund expenditures from 2004 to 2010 revealed that the vast majority of the funding went to organizations linked to DRPA commissioners or executive employees, or to organizations that provided a benefit to DRPA officials in exchange for the contribution. For example, in 2009, the last full year of the Fund, of the \$130,218.44 expended, \$102,928.44 or 79

percent of the total funding went to entities with either a connection to DRPA officials or to entities that provided such a personal benefit.

1. Contributions to Entities with Ties to DRPA Officials

A common thread among organizations receiving multiple donations from the Fund and those receiving the largest donations was their connection to DRPA officials. While these DRPA commissioners and executive employees did not formally vote on these projects, they often presented the request for funding and advocated for its approval.

For example, the Philadelphia Tribune newspaper, whose president and CEO was DRPA Commissioner Robert Bogle, secured 13 payments from the Fund totaling \$59,180 to purchase half-page advertisements. These advertisements, for example, congratulated local high school graduates, celebrated Black History Month and acknowledged Martin Luther King, Jr. Day. DRPA did not purchase similar advertisements in any other newspaper concerning these events. Commissioner Bogle was referenced on DRPA lists as the individual making these funding requests and he was copied on DRPA correspondence related to the requests. None of these requests were accompanied by a Community Giving Fund Application.

Another illustrative example involves the Mann Center for Performing Arts Gala. DRPA gave \$5,000 to this event while Commissioner Bogle was on the Mann Center's board of directors. In return, DRPA received tickets for a dinner and to the Bolshoi Ballet, an event attended by several DRPA executive officers.

A significant number of the funded projects had connections to CEO Matheussen. While Matheussen was not a member of DRPA's Sponsorship Committee, he is copied on a number of internal DRPA e-mails relating to these funding requests and many of the requests are addressed directly to him. Groups receiving funding that included Matheussen on their board of directors

included the Seamen's Church Institute, the Battleship New Jersey, the World Trade Center of Greater Philadelphia, the Philadelphia Sports Congress, the Philadelphia Convention and Visitors Bureau and the Southern New Jersey Development Council. None of these entities submitted to DRPA a Community Giving Fund Application in support of their funding request. Nonetheless, they received money from the Fund.

Similarly, DRPA Commissioner Kenneth Trujillo also requested funding for various organizations and events despite having a leadership position with the requesting organization. Specifically:

- The Pan American Association of Philadelphia received \$5,000 from the Fund for a luncheon following a request by Commissioner Trujillo, who sat on the association's board of directors. Regarding the luncheon, Trujillo e-mailed Matheussen stating, "I would appreciate support for that event."
- DRPA contributed \$5,000 to the Greater Philadelphia Hispanic Chamber of Commerce in sponsorship of the 2009 Alegria Ball: Argentina - Night of Tango and Wine, at The Ritz-Carlton hotel in Philadelphia. Trujillo was on the chamber's board of directors at the time and served as co-chair of the ball.
- DRPA also contributed \$5,000 to the Greater Philadelphia Hispanic Chamber of Commerce in sponsorship of the 2010 Alegria Ball: Fiesta Caribena, at the Curtis Center in Philadelphia. Again, Trujillo served as co-chair of the ball.
- DRPA contributed \$5,000 to the Congreso Society's 2009 Gala Latina: A Night in Acapulco, at the Park Hyatt Philadelphia. Trujillo served as honorary co-chair for the gala.

None of these entities submitted a Community Giving Fund Application to DRPA. Nonetheless, they received an allotment of tollpayer monies from the Fund.

2. Contributions for Galas, Sporting Events and Political Events

A majority of Fund expenditures was spent on dinners, events or other outings at which DRPA officials received something in return for the DRPA contribution. Routinely, for example, DRPA monies were spent on black tie galas or sporting events. Additionally, these

funds periodically were provided to support events of a political nature. The Fund's broad program parameters allowed DRPA to fund such events.

For instance, DRPA sent \$5,000 from the Fund to the University of Pennsylvania in connection with the university's hosting of the 2005 NCAA lacrosse championships. DRPA received VIP passes and a total of 12 tickets to the playoff and championship games in exchange for its contribution. Similarly, the Seamen's Church Institute hosted a series of annual galas sponsored by DRPA tollpayer funds. For example, DRPA gave the institute \$2,000 for a table of eight DRPA officials and guests to attend the 2006 Gypsy Melodies Gala.

Additionally, DRPA used the Fund to provide payment to attend a number of "Get to Know Us" legislative weekends. These expenditures of \$5,000 each year provided 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.

B. DRPA Terminated the Fund in 2010

On August 25, 2010, DRPA passed a resolution eliminating further DRPA contributions to charitable and civic organizations. The resolution notes a desire on the part of DRPA to focus on its core mission of operating and maintaining its bridges and the PATCO train line.

IV. E-ZPass Benefits

In July 2010, DRPA's Director of Public Safety Michael Joyce resigned after a public controversy surrounding his having provided to one of his children a DRPA-funded E-ZPass transponder belonging to another DRPA manager. DRPA had disciplined Joyce for the incident by requiring him to forfeit approximately \$2,000 in salary and to provide to DRPA \$600 in E-ZPass-related reimbursements.

In the wake of that resignation, OSC reviewed DRPA's E-ZPass policies and procedures. We determined that free passage benefits provided to all DRPA employees and commissioners had resulted in more than \$1 million of lost revenue to DRPA over the past ten years. Moreover, DRPA has granted unlimited free passage to its commissioners and executive employees without any written policies, procedures or internal controls, which led to significant abuses such as the benefit being extended to friends and relatives. Lastly, OSC discovered that due to the lack of proper controls and oversight, more than 50 individuals with no affiliation to DRPA inadvertently had been granted repeated free trips over DRPA bridges as if they had been DRPA employees.

DRPA's E-ZPass program is administered by an outside vendor, ACS State and Local Solutions, Inc. (ACS). DRPA commissioners, retired commissioners and employees at the rank of director and above were granted free, unlimited lifetime passage on DRPA bridges. This was known at DRPA as the "NON-REV" plan. Other DRPA employees and retired employees were granted 100 free bridge passages per year. This was known as the "DREM" plan.

In July 2008, a New York court held that free E-ZPass trips constitute a form of compensation. As DRPA commissioners are required by the Compact to serve without compensation, free trips to DRPA commissioners were eliminated at that time. Concurrently, all DRPA employees at director level or above who had been receiving unlimited free trips instead were enrolled in DRPA's DREM plan and became subject to the 100-trip per year cap.

On August 18, 2010, the Board adopted a resolution that eliminated all free passage benefits for DRPA commissioners and employees. On September 15, 2010, the Board voted to reinstate free passage benefits for DRPA employees commuting to or from work. At the September 15 meeting, the Board also authorized the continued allotment of 100 free bridge

crossings to those DRPA union members whose collective bargaining agreements granted them this benefit. The reinstatement of these benefits was vetoed by New Jersey Governor Chris Christie by letter dated September 16, 2010. However, on January 24, 2011, an arbitrator ruled that the rescinding of the free commuting privileges and the 100 free bridge crossings violated union contracts, and he required DRPA to reimburse the employees for tolls and fares paid since the policy change.

A. DRPA Lacked Effective Policies and Procedures for Administering its NON-REV Program

Unlike the DREM program, the NON-REV plan granting commissioners, former commissioners and senior employees free, unlimited lifetime passage on DRPA bridges was not memorialized in any written DRPA policy. DRPA representatives acknowledged to OSC that DRPA informally granted this benefit without any document defining it or its scope.

A DRPA employee involved with the management of the NON-REV program similarly described the procedures by which an employee's E-ZPass account was added to the NON-REV system as "informal." A DRPA representative simply would call or e-mail ACS and inform them of the employee's name and E-ZPass account number. The NON-REV program was "account-specific" rather than "transponder-specific," meaning that every transponder assigned to that account would receive the free bridge passage benefit. Under this system, every time a DRPA commissioner or qualifying employee added a vehicle to his or her E-Z Pass account, the transponder associated with that vehicle received the free bridge passage benefit regardless of whether the vehicle's owner had any connection to DRPA.

CEO Matheussen, Chairman Estey and Vice Chairman Nash, during interviews with OSC, each acknowledged that such an unlimited and undefined benefit was subject to abuse. Matheussen added that he did not think that the benefit was reasonable. Matheussen, Estey and

Nash each agreed that a commissioner or employee adding non-relatives to their E-ZPass account to extend the benefit to them would be entirely inappropriate.

In reviewing E-ZPass records for several DRPA employees and commissioners, OSC found that this benefit was, in fact, abused. DRPA directors, commissioners and former commissioners enrolled individuals such as friends, business associates, in-laws and adult children on their E-ZPass account, which in turn provided them with the benefit of unlimited free passage over DRPA bridges.

For example, according to ACS records, two individuals were placed on the E-ZPass account of former DRPA Chairman Manuel Stamatakis, which provided them with the free passage benefit. One was his former business associate who had no relation to DRPA, who was added to his account in 2004. The other was the daughter of Stamatakis' friend, who was added to his account in 2007. In an interview with OSC, Stamatakis denied having personally placed these individuals on his account and stated that he did not know how that happened. According to ACS records, Stamatakis' NON-REV account provided 123 free trips across DRPA bridges from 2004 through 2008.

Similarly, while former DRPA Commissioner Robert Potamkin moved out of the New Jersey/Pennsylvania region in the 1990s, he continued to receive the NON-REV benefit. His longtime secretary at his private company, who had no affiliation with DRPA, was enrolled on his account in 2004 and accumulated 1,124 free trips over DRPA bridges. Potamkin informed OSC that he was not aware that he, or anyone else for that matter, was receiving this NON-REV benefit and that he himself did not use the benefit. Regardless of whether Potamkin actually intended to provide his secretary with the DRPA benefit, the fact that she received it without

scrutiny from anyone at DRPA is indicative of the lack of appropriate DRPA controls in this area.

Several former DRPA commissioners included their adult children on their NON-REV accounts, which similarly gave them the ability to cross over DRPA bridges for free. OSC's investigation revealed that a number of these adult children no longer were residing with these commissioners, yet continued to receive unlimited, free bridge crossings until 2008.

B. Clerical Error Resulted in Enrollment of Additional Individuals Not Entitled to Receive NON-REV Benefits

In the course of working with ACS on a response to an OSC document request, DRPA was informed by ACS that 53 random individuals with no relationship to or affiliation with DRPA also had been included on the DRPA NON-REV list and had received free passage across DRPA bridges. According to ACS and DRPA, a customer service representative at ACS incorrectly had applied the DRPA discount plan to these accounts. These customers had requested the DRPA Commuter Credit, a rebate program offered to the public, but their accounts inadvertently were coded in the system as NON-REV and they therefore received unlimited free trips. OSC has determined that the failure to debit these 53 accounts resulted in at least 1,523 free trips at a cost to DRPA of \$4,569.

In his interview with OSC, DRPA's director of E-ZPass operations stated that neither DRPA nor ACS had been generating reports to reconcile DRPA E-ZPass employee benefit accounts with the names of DRPA employees actually entitled to be enrolled in those accounts. In short, DRPA had not implemented adequate internal controls.

Subsequent to this discovery, ACS adopted control procedures for these DRPA E-ZPass accounts. These new procedures should decrease the possibility of mistaken enrollments as they

require, for example, a request on DRPA letterhead before any account can be enrolled in any DRPA free passage plan.

C. Approximately \$1.2 Million in Revenue Was Lost Due to the Free Bridge Passage Benefit

OSC reviewed relevant documents in order to quantify the amount of revenue lost by DRPA due to its granting of free passage on its bridges to its commissioners, employees and retirees. To calculate the revenue loss for 2004 through 2010, the applicable DRPA toll schedule was applied to the number of free trips in each year. Table 7 shows the results of that analysis.

Table 7: Revenue Lost from Granting Free Bridge Passage

Year	Trips	Cost	Lost Revenue	Year	Trips	Cost	Lost Revenue
2004	42,037	\$3	\$126,111	2008	34,692	\$3	\$104,076
2005	36,327	\$3	\$108,981	2009	32,397	\$4	\$129,588
2006	42,471	\$3	\$127,413	2010	22,498	\$4	\$89,992
2007	36,820	\$3	\$110,460	Total	247,242		\$796,621

The average number of free trips each year from 2004 through 2010 was 35,320. Applying this average to calendar years 2000 through 2003 yields an estimated additional 141,281 trips and \$423,843 in unrealized revenue. Therefore, the estimated total lost DRPA revenue associated with the free passage benefit for 2000 through 2010 is \$1,220,464.

V. DRPA Credit Card and Reimbursed Business Expenses

OSC also conducted a review of selected DRPA expense reports and DRPA credit card statements to determine whether reimbursed employee expenses were reasonable and whether

DRPA was abiding by its own policies and procedures. While those policies and procedures in place prior to 2010 permitted substantial latitude in employee reimbursements, DRPA corrected many of these deficiencies in 2010 and began more rigorously applying the revised policies in an effort to limit unnecessary expenditures. Nonetheless, current DRPA policies still are significantly more generous than those that apply to New Jersey state employees.

Over time, DRPA expenditures for travel, professional development, meals and meetings have declined. From 1999 through 2003, those business-related expenses ranged from an annual low of \$290,758 to a high of \$443,054. Since 2004, total expenses have not exceeded \$110,878 in any given year. Table 8 shows DRPA’s spending on travel, meetings, meals and professional development from 1999 through 2010.

Table 8: DRPA Expenditures for Travel, Meetings, Meals and Professional Development

Year	Expenditures	Year	Expenditures	Year	Expenditures
1999	\$324,156	2003	\$290,758	2007	\$84,051
2000	\$421,852	2004	\$105,159	2008	\$100,339
2001	\$443,054	2005	\$103,106	2009	\$110,878
2002	\$403,446	2006	\$77,083	2010	\$89,986

A. DRPA Expense Policies

DRPA employee business expenses are governed by DRPA’s Policies & Procedures Manual Series No. 400 issued on February 20, 2004. That manual provides that DRPA “will pay for reasonable business expenses incurred in the course of transacting official business where

proper documentation and/or approvals are submitted” (emphasis in policy). The following are relevant specific policies set forth in the manual:

- Hotel reimbursement is not to exceed \$200 per day.
- Meal reimbursement while traveling is not to exceed \$70 per day including tips. Guidelines for specific meal expenses are: breakfast \$15, lunch \$15 and dinner \$40.
- Reimbursement for meals with outside business associates requires setting forth: (1) the business associates’ names; (2) their titles; (3) their company name; and (4) a brief description of the nature of the business discussed and the intended business outcome.
- No reimbursement for alcoholic beverages.
- Selected DRPA executives may receive a corporate American Express card.
- Expense reports must be submitted within 30 days of the time the expense is incurred.
- No reimbursement for meals involving only DRPA employees while not traveling.
- No reimbursement for departmental celebrations, including holiday or birthday parties.

B. Payment of Travel, Meals and Professional Development Expenses

OSC’s review of pre-2010 reimbursed business expenses at DRPA revealed that a number of reimbursed meals far exceeded the Series No. 400 reimbursable limits and that the documentation substantiating the reimbursement claim often was incomplete. A similar review for expenses incurred after the 2010 revision of Series No. 400 indicates that DRPA’s policies have been strengthened and that DRPA has become more exacting in its application of those policies.

1. Expenses Under the 2004 Policy

In reviewing DRPA expense reports from 2003 through 2010, we found numerous reimbursed expenses that violated DRPA's stated reimbursement limits and guidelines. The following are some recent examples:

- A New Jersey Commissioners Dinner was held on April 8, 2008, at the Riverwinds Community Center at a cost to tollpayers of \$725.60. Series No. 400 appears to prohibit this type of expenditure.
- A business lunch on December 9, 2009, at Caffè Aldo Lamberti was reimbursed for \$272.38. This expense failed to list the names and titles of participating individuals from outside of DRPA, was submitted more than 30 days after the lunch without explanation and the cost exceeded the Series No. 400 guideline of \$15 per person.
- A Commissioners Dinner was held on April 14, 2009, at the Pennsauken Country Club at a cost of \$2,033.59. Series No. 400 appears to prohibit this type of expenditure.
- On February 22, 2010, a lunch meeting to discuss engineering issues was held at The Palm restaurant at a cost for three people of \$101.78. The next day, a lunch meeting to discuss insurance issues was held at The Palm at a cost for two people of \$67.32. These expenses exceeded the guideline for lunch expenses set forth in Series No. 400.

One of the more egregious violations of DRPA expense policies was DRPA's spending on the 2009 Pennsylvania Society Weekend. Two DRPA employees attended this weekend event at The Waldorf-Astoria hotel in New York City. The two employees charged a DRPA American Express Card \$2,222.39 to attend this event. The room cost charged by the employees was \$435.00 and \$519.00 per night for a two-night stay, contrary to the Series 400 maximum of \$200 per night. Moreover, this event does not appear to have been related to the business of managing and operating DRPA's bridges or rail line. A review of the schedule of events reveals a series of political fundraisers and lobbyist-sponsored receptions. The main event of the weekend was a black tie dinner in the Grand Ballroom of the Waldorf-Astoria. Other events included a forum for gubernatorial candidates, receptions for other electoral candidates, and

receptions sponsored by law firms, lobbyists and banks. The use of tollpayer funds to attend this political function violated DRPA reimbursement guidelines.

2. Revised 2010 Business Expense Policy

In December 2010, DRPA issued a revised Series No. 400. This revised policy reduced the maximum meal reimbursement from \$70 per day to \$60 per day and eliminated the use of corporate American Express cards. That is, the revised policy requires that all DRPA employees pay for any reimbursable business expenses out of their own pocket and substantiate the business purpose and reasonableness of the expenditure prior to receiving reimbursement.

A greater level of scrutiny now is being applied to expenses submitted for reimbursement. Expenses that previously were reimbursed despite the absence of proper documentation or explanation are now being denied or sent back for further documentation. Expense reports recently submitted by DRPA's CEO and other senior officers demonstrate this greater degree of scrutiny. Mileage has been adjusted downward to the nearest tenth of a mile and reimbursement for dinners prior to board meetings has been disallowed as has reimbursement for trips of less than five miles. While the monetary amount of these particular expenses was minimal, the careful scrutiny being applied demonstrates significant improvement in the application of DRPA's expense policy.

3. Comparison to State of New Jersey Expense Policies

The New Jersey Department of the Treasury issues policy circulars that outline state policy concerning the expenditure of public funds on entertainment, meals and travel for state employees. These state policies do not apply to DRPA because DRPA is a bi-state authority and a creation of federal law. If DRPA had been operating under these policies, a number of expenses recently incurred by DRPA employees would not have been reimbursed.

For example, under Circular 11-09-OMB (Entertainment, Meals and Refreshments), only “light meals and refreshments” may be served at office meetings. Under Circular 11-05-OMB (Travel Regulations), reimbursement for meals is limited to circumstances involving out-of-state travel for multiple days and other limited circumstances. Similarly, reimbursement for lunch is not authorized except in special, limited circumstances. Under the state policy, when meals are eligible for reimbursement, reimbursement rates for situations involving non-overnight travel are \$5 for breakfast, \$7 for lunch and \$10 for dinner. These rates are far less generous than even the revised DRPA rates.

In addition, under the New Jersey policies, persons who are not state employees are required to submit their own claim for reimbursement. Thus, these policies would not permit the situation commonly encountered at DRPA in which DRPA management used tollpayer funds to treat vendors and contractors to lunch at expensive restaurants. OSC recommends that DRPA adopt the State of New Jersey policies to ensure its appropriate expenditure of public funds.

Conclusions and Recommendations

OSC's investigation revealed wasteful spending and mismanagement of tollpayer funds due to misguided priorities as well as weak or ignored DRPA policies, procedures and internal controls.

As discussed in this report, the "truing up" of DRPA broker commissions was attributable to a focus on maintaining bi-state parity for DRPA vendors at the expense of tollpayers. The rationale for DRPA's two insurance brokers sharing their DRPA-derived commissions with yet other brokers is more ambiguous. Regardless of that rationale, the payment of these commissions to such brokers who performed little if any additional brokerage services for DRPA represents a lost opportunity for DRPA cost savings.

There are alternative methods that DRPA could have used to better ensure that the fees paid to its brokers represented compensation only for work actually performed for or on behalf of DRPA. For example, DRPA could have negotiated a lower-cost, fixed-fee payment arrangement with its brokers or initiated a public, competitive broker-selection process that used market forces to ensure that DRPA was obtaining the lowest possible price for brokerage services. As OSC has noted in a previous report, "Competition, transparency and accountability are maximized when a service contract is publicly advertised, with responsive proposals judged on the basis of predetermined, merit-based evaluation criteria, and awarded based on the recommendation of a qualified evaluation committee." Office of the State Comptroller, *Best Practices for Awarding Service Contracts*, March 4, 2010, at 3.

OSC further recommends that DRPA specifically prohibit the sharing of commissions by and among its insurance brokers as discussed in this report. OSC also recommends that DOBI, consistent with previous recommendations of the State Commission of Investigation, take action

to prohibit insurance brokers from sharing commissions when working on behalf of public entities, unless the arrangement is disclosed and is related to work actually performed. To the extent that DOBI requires statutory authorization to take such action, we recommend the enactment of authorizing legislation. Any such commission sharing arrangements must be transparent and must be monitored so that the contracting public entity can take those arrangements into consideration when determining appropriate compensation and procurement methodologies concerning its brokerage services.

To DRPA's credit, several of the deficiencies discussed in this report recently have been addressed and some of the programs associated with OSC's findings have been terminated. Along those lines, DRPA has directly stated in response to OSC's findings that from this point forward, "any practice of fee-splitting by [DRPA] insurance brokers will be prohibited." That said, DRPA should consider the findings in this report as it reviews and improves upon its financial practices and operations more generally. For example, even though DRPA has updated its procurement policies and procedures and has modified how it will pay its insurance brokers, OSC's review of DRPA's 2010 procurement process for brokers suggested a continuing preference for bi-state vendor parity despite the formalization of a competitive process. DRPA should enforce its new policies and procedures in the context of these findings to ensure that it is selecting its vendors in a fair and competitive manner and that brokers are being compensated only for work actually performed.

Additionally, although DRPA is in the process of ending its free bridge passage program, OSC found substantial waste and abuse attributable to weak or non-existent internal controls as well as poor communication with the vendor administering the program. DRPA must ensure that these same deficiencies do not result in similar problems with regard to the remainder of its

electronic toll collection program as well as its other programs. Similarly, although DRPA has now revised its business expense policy to eliminate many unnecessary expenditures, additional steps such as adopting New Jersey state reimbursement policies would help avoid further waste of tollpayer funds.

Significantly, DRPA has committed to OSC that it will continue the process of reform and implement OSC's recommendations. Failure to rectify the shortcomings discussed in this report will lead to their inevitable repetition, continued waste of tollpayer funds and further damage to the reputation of DRPA.