



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL

**Investigation of Alleged Insurance Fraud against the New York State
Department of Transportation**

October 5, 2006

In March 2005 the Office of the State Inspector General received information that GWB Painting Corporation (GWB) might have provided false information to the New York State Department of Transportation (DOT) relating to the firm's insurance coverage on a bridge painting contract.

DOT awarded GWB a contract in July 2002 for approximately \$1.5 million to paint 12 bridges in Nassau and Suffolk counties. As required by DOT, GWB submitted two certificates of insurance indicating it had adequate insurance coverage for the contract work. The certificates, which were prepared for GWB by Dounia's Insurance Brokerage, stated that GWB had liability insurance from two companies, Mount Vernon Fire Insurance Co. and U.S. Liability Insurance.

In fact, the certificates prepared by Dounia's and submitted by GWB to DOT contained false information, as neither Mount Vernon Fire Insurance nor U.S. Liability Insurance had issued policies to GWB. The actual insurer of GWB was Utica First; however, the policy GWB purchased from Utica First was not sufficient for the DOT contract as it specifically did not cover work on exterior structures such as bridges.

These facts came to light after a July 2003 incident involving a private individual whose vehicle was accidentally sprayed with paint while passing under a bridge where a GWB crew was working. The driver contacted the DOT Claims Unit for reimbursement for the cost of repairs to his car and was advised to file a claim against the contractor. After calls to GWB and then to Dounia's, the driver contacted Utica First and submitted a reimbursement claim with that company. The claim was denied because, as noted, GWB's policy with Utica First did not cover bridge painting.

In October 2003 GWB withdrew from the DOT contract, citing unexpected difficulties in performing the work and cash flow problems. The surety, Gulf Insurance Company, took over the contract in April 2004 with a different contractor.

Our investigation determined that while DOT requires a contractor to provide evidence of acceptable insurance, the DOT Contract Management Bureau accepts

certificates of insurance as sufficient. DOT neither receives a copy of the policy itself nor checks with the insurance company directly to verify the adequacy of the policy.

The use of certificates of insurance as evidence of insurance was addressed in a New York State Insurance Department bulletin to all State agencies in January 1998. The bulletin warned that the Insurance Department had been notified that licensed producers were completing certificate of insurance forms and adding terms or clauses on the form that the public entity required, but which were not contained in the insurance policy. In the bulletin, the Insurance Department advised agencies that “a certificate of insurance, even one completed by a licensed producer, is not the best evidence of the terms of an insurance policy and may not accurately reflect the actual terms of the policy.”

On September 6, 2006, this Office recommended to DOT that it revise its practices to either request that contractors provide a copy of the actual policy or to contact the insurance carrier directly to verify that the coverage listed on the certificate of insurance is indeed the coverage actually held under the policy number provided by the contractor.

We also recommended that DOT take steps to ensure that all agency employees are aware of the reporting obligation of Executive Law Article 4-A, which requires that information concerning fraud by State employees or against State agencies be brought to our attention in a timely manner. This recommendation was made in light of the fact that DOT officials knew no later than February 2004 of the potential fraud relating to GWB’s submission of insurance certificates containing false information, but did not inform this Office until March 2005.

Upon notification by DOT, this Office’s investigation determined that GWB had gone out of business after it withdrew from the DOT contract in October 2003, and that Dounia’s, the brokerage that prepared the insurance certificates for GWB, had also ceased operating. However, given the substantial time that had passed, we were not able to locate Dounia’s principals, despite following all investigative leads. Therefore, the question of a potential insurance fraud against DOT could not be resolved.

In response to our recommendations, the DOT Counsel’s Office has advised us that the agency is taking action to address both the insurance verification and fraud reporting issues.