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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 20, 2005

Mr. Howard Mills
Superintendent
New York State Insurance Department
25 Beaver Street
New York, New York 10004

Re: Report 2005-F-8

Dear Mr. Mills:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Insurance Department's Insurance Frauds Bureau to implement the recommendations contained in our audit report, *Activities to Combat Automobile Insurance Fraud* (Report 2001-S-49).

Background, Scope, and Objective

Legislation in 1981 established the Insurance Frauds Bureau (Bureau) as a law enforcement agency within the New York State Insurance Department (Department). The Bureau's primary mission is the detection, investigation, and referral for prosecution of individuals and groups that commit insurance fraud. In addition to its headquarters in New York City, the Bureau has offices in Albany, Buffalo, Mineola, Oneonta, Rochester, and Syracuse.

Bureau staff consists of 38 investigators organized into 8 specialized units – Arson; Automobile; No-Fault/Organized Fraud; Medical; Fraudulent Cards; Workers' Compensation; General; and Upstate. A Supervising Investigator heads each unit. General oversight of the investigative staff is the responsibility of a Chief Investigator assisted by a Principal Investigator.

The Bureau also has a staff of three insurance examiners who work under the supervision of a Principal Examiner. An Assistant Director of Research and a Frauds Bureau Counsel report to the Director and Deputy Director; and the Senior Training Officer reports to the Principal Investigator. In addition, five support staff members report to the Secretary to the Director.

The Bureau received 27,279 reports of suspected insurance fraud in 2004. Of those, 26,408 were received from licensees required by Section 405(a) of the New York Insurance Law to submit such reports to the Department, and 871 were received from other sources such as consumers and anonymous tips. A total of 1,181 new cases were opened for investigation during the year. At the same time, investigations continued on numerous cases opened in prior years. During 2004, the Bureau referred 291 cases to prosecutorial agencies for criminal prosecution and another 38 for civil

settlement or referral to the Department's Office of General Counsel for civil proceedings.

Our initial audit report, which was issued on April 1, 2004, examined selected activities of the Insurance Department's Insurance Frauds Bureau to combat automobile insurance fraud during the calendar years of 1999, 2000, 2001, and up to September 30, 2002 (except for incidents that might have been related to the events of September 11, 2001). The objectives of our performance audit were to determine whether the Department had established performance measures for assessing the effectiveness of its efforts to combat automobile insurance fraud, whether the Department had established a database designed to combat automobile insurance fraud, whether requirements for insurance company filings of fraud prevention plans and annual reports had been met, and whether the Department had established effective interface with other entities that are affected by automobile insurance fraud. Our report identified that the Department has not established a formal performance measurement system for assessing the effectiveness of the insurance fraud program, and that there is no effective interface between the Department and the insurance companies. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation as of October 12, 2005 of the twenty recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials have made limited progress in implementing the recommendations. Of the twenty initial audit recommendations, seven recommendations have been implemented, three recommendations have been partially implemented and ten recommendations have not been implemented.

Follow-up Observations

Recommendation 1

Prepare and report on formal performance measures that can be used by management to assess the Bureau's progress toward its mission.

Status - Not Implemented

Agency Action - Officials have developed an Investigative Checklist, on which completion dates of certain steps of an investigation are documented; however, they have not prepared formal performance measures. Officials state that such detailed requirements could result in problems, should a case be brought to trial, if the various forms have not been completed and/or deadlines have not been complied with by their office. Officials stated that the new manual, which is still in a draft stage, will produce more precise reporting, while setting forth requirements for investigative control that do not inhibit the investigations.

Recommendation 2

Perform a risk assessment of the Insurance Frauds Bureau.

Status - Implemented

Agency Action - Officials stated that they provide a risk assessment to the Division of the Budget on an annual basis. We were provided with the latest copy of the assessment which assesses inherent risk, the business process risk and the business continuity risk for the major activities of the Insurance Frauds Bureau.

Recommendation 3

Require the Bureau's Data Processing Unit to develop and maintain a complete set of documentation for the IFB database that can support future system operations and maintenance. This set should include items such as a data dictionary, screen definitions, program definitions, system edit tables, and approved program code.

Status - Implemented

Agency Action - As part of a Request for Proposal (RFP), issued in November 2004 to update the current computer system of reports of suspected funds referred to as the IFB database system, officials developed a set of documentation for the IFB database. The documentation included a data dictionary, screen definitions, program definitions, and system edit tables. The contract is currently under review by the Office of the State Comptroller's Contract Unit. Officials also stated that the proposed contract does require the contractor to provide complete user and technical documentation for the new system.

Recommendation 4

Improve system edits for the IFB database, including those regarding address and vehicle identification data.

Status - Not Implemented

Agency Action - Officials have not improved system edits for the IFB database and have not required any changes to the edits for the new system.

Recommendation 5

Determine whether reporting needs have changed, thus eliminating the justification for generating output reports.

Status - Not Implemented

Agency Action - Officials did not perform an assessment of reporting needs to determine if current output reports are needed. Department officials state that the new system, when completed will have better ad hoc reporting capability, resulting in improved reporting for system users.

Recommendation 6

Develop detailed written procedures for the current Hotline operations, including staff assignment, staff qualifications, staff duties, supervisory roles, etc.

Status - Partially Implemented

Agency Action - Officials are developing detailed written procedures for the current Hotline operations; however, the procedures are currently in draft format.

Recommendation 7

Formally document the process by which a specific code will be assigned to each decision about whether to open an investigation or make a referral.

Status - Partially Implemented

Agency Action - Officials formally documented the process by which a specific code will be assigned to each decision about whether to open an investigation or make a referral. Fraud Report Processing Procedures require the unit staff to write either an "R" or a "C" in the corner of the case report to designate whether the report was referred or a case had been opened. An SID official stated that the procedures are still in a draft stage but are being introduced informally into the documentation.

We reviewed nine cases and found that in four cases the "C" identifier was not present though rest of case identifier fraud type, sequence, and year was present.

Recommendation 8

Document all decisions about opening investigations or making referrals based on IFBs.

Status - Implemented

Agency Action - Officials require that all decisions about opening investigations or making referrals be documented on the Investigative Checklist. However, there is no requirement to document an explanation as to why a particular decision was made. In a review of a sample of nine cases we found that the documentation indicates that a reason for the opening of the case appeared in the IFB Report continuation pages in all cases reviewed.

Recommendation 9

Revise the Bureau's Manual to include the specific procedures that various levels of Bureau staff must follow to process IFBs received from insurance companies. The procedures should cover the entire process, from the point when the IFB is received to the decision to open an investigation or make a referral.

Status - Implemented

Agency Action - Officials revised the Bureau's Manual to include IFB Intake Procedures in December 2004. These procedures specify what steps should be taken when processing IFBs received from insurance companies.

Recommendation 10

Require Insurance Frauds Bureau investigators to follow the Bureau's Manual regarding the preparation of an investigative plan for the cases.

Status - Implemented

Agency Action - Officials developed an Investigative Checklist, Case Investigation Procedures, and IFB Intake Procedures, all of which require investigators to work with their supervisor to prepare an investigative plan for all cases.

Recommendation 11

Establish expected time frames for completing an investigation, and use them to assess the timeliness of progress in an investigation. Require investigators to document reason(s) for time gaps in their case notes.

Status - Not Implemented

Agency Action - Officials continue to disagree with the need to establish expected time frames for completing an investigation, and to use them to assess the timeliness of progress in an investigation.

Recommendation 12

Revise the Bureau's Manual to reflect the professional standards for investigative organizations outlined by the Executive Council on Integrity and Efficiency of the President's Council on Integrity and Efficiency regarding the storage and retrieval of data, and the completion of investigations in a timely manner.

Status - Implemented

Agency Action - Officials revised the Bureaus' Manual to include the President's Council on Integrity and Efficiency in the IFB Intake Procedures.

Recommendation 13

Revise the Bureau's Manual to include the specific forms needed to document investigators' compliance with required investigative procedures. Design a checklist of all documents that must be included in the investigation case record before the supervisor reviews it.

Status - Partially Implemented

Agency Action - Officials revised the Bureaus' Manual to include the specific forms required. The required documents are listed in the Case Investigation Procedures. Officials also designed an Investigation Checklist that contains a list of steps required and spaces for completion dates; however, the Checklist does not include a list of required documents.

Recommendation 14

Periodically reconcile the files containing IFBs and case records to determine whether all of the reports are accounted for.

Status - Not Implemented

Agency Action - Officials continue to disagree with the need to periodically reconcile the files containing IFBs and case records to determine whether all of the reports are accounted for. Officials stated that accounting for all of the IFBs was not a high risk item. There would be more energy spent in the search than the benefit that would be derived.

Recommendation 15

Require the Insurance Frauds Bureau to review and reconcile the comparison data provided in submission lists for Fraud Prevention Plans and annual reports.

Status - Not Implemented

Agency Action - Officials provided no documentation regarding the efforts to reconcile the data in Fraud Prevention Plans and Annual Reports.

Recommendation 16

Require the Insurance Frauds Bureau to develop a system for determining independently which insurance companies are required to file a Fraud Prevention Plan and for monitoring the companies' subsequent submissions of annual reports.

Status - Not Implemented

Agency Action - Officials have developed Annual Special Investigations Unit (SIU) Report

Instructions and a PowerPoint slide presentation to communicate the instructions to insurance companies. However, they have not developed a system to determine which insurance companies are required to file a Fraud Prevention Plan.

Recommendation 17

Require the Insurance Frauds Bureau to develop and implement a monitoring tool capable of verifying that all checklists used to review submission of Fraud Prevention Plans and annual reports have been dated and signed.

Status - Not Implemented

Agency Action - Officials have developed Annual Special Investigations Unit (SIU) Report Instructions and a PowerPoint slide presentation to communicate the instructions to insurance companies. However, they have not developed a system to verify that all checklists used to review submission of Fraud Prevention Plans and annual reports have been dated and signed. Officials are working on a new process to report and monitor Fraud Prevention Plans based on the new SIU report.

Recommendation 18

Document the audit work done by the public accounting firm as a record that reviews were done of the insurers Preventive Fraud Plans.

Status - Not Implemented

Agency Action - Officials did not provide documentation of the work done by private accounting firms to support that the firms completed the reviews of insurers Prevention Fraud Plans. Officials stated that the Bureau no longer uses private accounting firms to do such reviews. In the future, officials plan to develop their own audit program to take care of this task.

Recommendation 19

Require the Insurance Frauds Bureau to design a system that will exchange information with insurance companies about when their IFBs have been received, changed, investigated, and/or referred.

Status - Implemented

Agency Action - Officials have designed a system that will exchange information with insurance companies regarding previously submitted IFBs. However, the system does not automatically inform the insurance company of updates. When an insurance company submits an IFB, it automatically receives a confirmation letter containing a reference number. In order to gain additional information regarding the IFB in the future, the insurance company is required to access the IFB database system and enter the reference number into a search function in the IFB database system. This then allows the insurance company to view the status of their previously submitted reports.

Recommendation 20

Require Insurance Frauds Bureau staff to contact insurance fraud agencies in other states to learn about their insurance fraud programs and to identify best practices that might be adaptable to New York State.

Status - Not Implemented

Agency Action - Officials stated that they have a strong affiliation with the National Association of Insurance Commissioners (NAIC) and that they are very active in this organization but they are not accredited with them due to New York State laws surrounding risk based capital. Though not accredited, officials believe that New York State is a lead state in the group. However, no documentation was provided that they have evaluated best practices of other states for use in New York.

Major contributors to this report were Bill Clynes, Don Collins and Jennifer Van Tassel.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Steven E. Sossei
Audit Director

cc: Carmen Maldonado
Robert Barnes, Division of Budget