



The City of New York  
Department of Investigation

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Release #07-2021  
nyc.gov/doi

**FOR IMMEDIATE RELEASE**  
**THURSDAY, MAY 13, 2021**

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**DOI RELEASES REPORT ON ITS INVESTIGATION OF DEFECTIVE ABSENTEE BALLOT PACKAGES  
PRODUCED BY PHOENIX GRAPHICS FOR THE 2020 GENERAL ELECTION**

***--DOI found no evidence of intentional interference with the printing and assembly process of the faulty ballots--***

Margaret Garnett, Commissioner of the New York City Department of Investigation (“DOI”), issued a report today on DOI’s investigation into defective absentee ballots produced by Rochester, New York-based Phoenix Graphics, Inc., for the 2020 General Election in New York City. In late September 2020, numerous voters in Brooklyn received absentee ballot packages containing “oath envelopes” pre-printed with names and addresses that were not theirs, prompting the City Board of Elections (“BOE”) to announce that approximately 99,000 packages assembled as part of that print run would be re-printed and mailed to voters at Phoenix Graphics’ expense. DOI investigated the circumstances surrounding these faulty absentee ballots as well as whether the BOE properly awarded a contract to Phoenix Graphics. DOI found no evidence that there was intentional interference regarding the defective absentee ballot packages. DOI also determined that while there was no competitive bid process to procure the contract, the award was consistent with emergency procurement authority granted to the BOE. A copy of the full report follows this release and can also be found at the following link: <https://www1.nyc.gov/site/doi/newsroom/public-reports.page>

DOI Commissioner Margaret Garnett said, “DOI found no intent or motivation to intentionally disrupt Phoenix Graphics’ print run of the absentee ballots; nor did DOI find that the BOE improperly awarded a contract to Phoenix Graphics. DOI also found no evidence that a data deletion during a software installation was purposeful. The facts determined during this investigation are consistent with some deficiencies in Phoenix Graphics’ quality controls and a lapse in the company’s operation of a complex printing process. Although we found no wrongdoing, DOI is issuing this public report in the interests of transparency and the importance of the public’s confidence in the City’s voting process and overall election integrity.”

DOI’s Report found that in April 2020, Governor Cuomo issued Executive Order 202.15, which made mail-in absentee voting temporarily available to all New York voters for the June primary. The State legislature subsequently passed legislation that similarly made mail-in absentee voting available to any eligible voter in the November 2020 general election. Because the demand for absentee ballots increased dramatically, the BOE required assistance from outside vendors to print those ballots. The BOE reached out to three printing companies with which it had existing relationships to determine if they could assist in printing these ballots on short notice. Two of the three companies, one of which was Phoenix Graphics, agreed to take on the work. In a May 2020 internal memo, BOE Executive Director Michael Ryan certified that there was insufficient time to conduct a competitive bid process in connection with the printing of absentee ballots for the 2020 elections and directed the BOE’s Agency Chief Contracting Officer “to negotiate with the Board’s current Election Day Ballot printers to provide printing and mailing services.” The BOE’s June 2020 contract with Phoenix Graphics referenced gubernatorial Executive Order 202.26, which allowed county boards of election to procure absentee ballots “without the usual advertising for bids and offers and compliance with existing procurement policies and procedures.” Phoenix Graphics was awarded a contract valued at \$4.6 million to print absentee ballots for voters in Brooklyn and Queens.

DOI interviewed the president of Phoenix Graphics Salvatore DeBiase under oath, who explained in detail the company's printing and assembly process for absentee ballots, including during the several day timeframe in September 2020 that the mismatched ballots were produced. The Report indicates that DeBiase explained the machine has no mechanical parts that can be controlled remotely and that in September 2020 he was informed by the BOE that hundreds of voters in Brooklyn had complained of receiving oath envelopes with someone else's name and address printed on them. DeBiase also told DOI that the cause of the faulty ballot packages was not immediately clear; that his staff tried to re-create different scenarios and found two mechanical parts that, if not adjusted properly before the print run, could result in oath envelopes pushed onto an incorrect pile. During the affected print run in September 2020, there was an employee operating the machine who recalled observing one oath envelope fall on top of the wrong pile, but he did not see any more oath envelopes drop into the wrong pile. The employee conducted spot checks throughout the run but did not identify any additional mismatched oath envelopes.

The printing and insertion machine can usually generate a detailed report about every print job, but DeBiase stated that by the time he learned of the problem and sought to generate such a report, the machine's history had been deleted as a result of a software installation. DOI's investigation revealed no evidence that the data deletion, as a result of software installation, was purposeful or done with any knowledge of the ballot printing errors.

DeBiase and two other Phoenix Graphics employees testified that they had no reason to believe that anyone at Phoenix Graphics had deliberately caused the envelope mismatch. In addition, DeBiase indicated he has implemented new procedures to prevent similar problems from happening in the future, including: having multiple employees check the layout of the machine to ensure it is set up correctly, extracting the data after each print run so it can no longer be accidentally deleted, conducting more spot checks by opening envelopes at random, inspecting diverted packages, and having employees observe the area where the oath envelope lands to ensure they are landing on top of the correct piles.

Commissioner Garnett thanked the BOE for its cooperation in this investigation.

The investigation was conducted by Assistant Inspector General Matin Modarressi and Special Investigator Evelyn McCorkle, under the supervision of Inspector General for the BOE Andrew Sein, Deputy Commissioner/ Chief of Investigations Dominick Zarrella, and First Deputy Commissioner Daniel Cort.

*DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.*

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New York City  
Department of Investigation



DOI's Investigation Relating to Absentee Ballot Packages Sent to  
Brooklyn Voters in September 2020 by Phoenix Graphics, Inc.

Margaret Garnett  
Commissioner

Andrew Sein  
Inspector General

May 2021

## Executive Summary

In the spring and summer of 2020, New York State temporarily authorized all eligible voters to vote by mail-in absentee ballot in the year’s primary and general elections. The expansion of mail-in voting served a public health objective and was one of many measures that the state took to control the COVID-19 pandemic. However, it also presented a unique challenge to the New York City Board of Elections (“BOE”), which would be responsible for overseeing the printing, mailing, and counting of absentee ballots for New York City voters on an unprecedented scale.

Prior to 2020, the BOE issued sufficiently few absentee ballots for any given election that it was able to print them in-house, at its own offices around the City. The sharply increased demand in 2020, however, required the BOE to identify professional printing companies to assist in printing and assembling absentee ballot packages that would be sent to the City’s voters. The BOE turned to two of its long-time ballot printers for the job—Rochester, New York-based Phoenix Graphics, Inc. (“Phoenix Graphics”) and Albany, New York-based Fort Orange Press, Inc. (“Fort Orange Press”). Phoenix Graphics was ultimately assigned to print absentee ballots for voters in Brooklyn and Queens, while Fort Orange Press was assigned to print ballots for voters in Manhattan, the Bronx, and Staten Island.

In late September 2020, reports surfaced that numerous voters in Brooklyn had received absentee ballot packages containing “oath envelopes” pre-printed with names and addresses that were not theirs. The oath envelope was one of four components in the absentee ballot package, and had to be signed by the voter to certify that they were in fact eligible to vote by absentee ballot. The faulty ballot packages had been printed, assembled, and mailed by Phoenix Graphics. Although the total number of faulty ballot packages was unclear, the BOE announced that all of the approximately 99,000 packages assembled as part of that print run would be re-printed and mailed to voters at Phoenix Graphics’ expense. News reports also highlighted the fact that the BOE had engaged Phoenix Graphics for this work without a full competitive bidding process.

## **Investigation into Absentee Ballot Packages Sent to Voters by Phoenix Graphics, Inc.**

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The New York City Department of Investigation (“DOI”) subsequently opened an investigation into the circumstances surrounding these events. Because of the importance of public trust in the voting process, and transparency around election integrity, DOI now issues this public report on the findings of its investigation.

DOI’s investigation found no evidence of any intentional interference with the printing or assembly process for the faulty ballots, nor any circumstantial evidence that would be consistent with a motive to intentionally mispackage the relevant ballots. Although the ultimate cause of the problem remains unclear, the facts uncovered during DOI’s investigation are more consistent with an error in Phoenix Graphics’ operation of a complex printing and assembly machine, as well as deficiencies in the company’s quality control process. However, DOI’s findings are necessarily limited because data that would independently corroborate these findings was deleted as a result of a software installation.

## Findings of Investigation

### 1. The BOE's Recent Contracts for the Printing of Election Ballots

In 2015, following a competitive, sealed bidding process, the New York City Department of Citywide Administrative Services (“DCAS”) entered into five-year contracts with three vendors to print election ballots for the BOE. These ballots were used for in-person voting on election days and during early voting periods. They were distinct from absentee ballots, which will be discussed in more detail below.

The three vendors selected for the election ballot contracts were Massachusetts-based Bradford & Bigelow, Inc. (“Bradford & Bigelow”); Fort Orange Press; and Nebraska-based Election Systems & Software, LLC (“ES&S”), which is also the manufacturer of electronic voting machines used by the City since 2010. ES&S, however, informed the BOE during the bidding process that Phoenix Graphics would serve as its printing “partner” in New York State, making Phoenix Graphics the functional equivalent of a subcontractor to ES&S.<sup>1</sup>

According to BOE Executive Director Michael Ryan, New York City’s boroughs were divided roughly equally among the three vendors, so that each was responsible for printing election ballots for approximately the same number of registered voters.

DOI’s research found that, over the last decade, Phoenix Graphics and Fort Orange Press have been the dominant providers of ballot printing services in New York State. In a 2015 report, the New York State Comptroller’s office stated that at least some local election officials relied on these two vendors because the New York State Office of General Services had deemed them “certified” to print ballots for new voting machines that had been introduced in 2010. Of the 13 local election boards surveyed by the Comptroller’s Office in that report, 11

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<sup>1</sup> BOE officials conducted a site survey of Phoenix Graphics’ printing facility in October 2014 and wrote in a report to DCAS that they were “very impressed . . . with the size and orderliness of their operation and the multiple quality assurance locations throughout their plants that assure ballots are correct and ready to be used.”

had used either Phoenix Graphics or Fort Orange to print paper ballots between 2010 and 2012.<sup>2</sup>

## **2. Use of Absentee Ballots in the 2020 Primary and General Elections**

In April 2020, Governor Cuomo issued an executive order making mail-in absentee voting temporarily available to all New York voters for the June primary. *See* Executive Order 202.15 (making “potential for contraction of the COVID-19 virus” a basis for requesting an absentee ballot). The state legislature subsequently passed legislation that similarly made mail-in absentee voting available to any eligible voter in the November 2020 general election.

Prior to 2020, the demand for absentee ballots had been sufficiently low that the BOE had, in recent years, printed absentee ballots in-house at its borough offices. That system became untenable following these temporary changes to the law in 2020, when the demand for absentee ballots increased sharply and the BOE required assistance from outside vendors.

BOE Executive Director Ryan told DOI that the BOE contacted the three printing companies with which it had an existing relationship to determine if they could assist in printing a large number of absentee ballots on relatively short notice. Phoenix Graphics and Fort Orange Press agreed to take on the work; Bradford & Bigelow declined.

Ryan explained that he participated in a conference call with Phoenix Graphics and Fort Orange Press in which they all discussed the two vendors’ capacities for printing absentee ballots in the volume and timeframe that the BOE required. Following that discussion, the BOE awarded the absentee ballots for Brooklyn and Queens to Phoenix Graphics, and the absentee ballots for Manhattan, the Bronx, and Staten Island to Fort Orange Press. Ryan told DOI that the BOE’s objective was to split the total number of ballot packages relatively equally between the two companies. Phoenix Graphics’ contract was

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<sup>2</sup> New York State Office of the State Comptroller, “Localities’ Procurement of Paper Ballots,” Report 2013-S-36, March 2015, p. 6.

valued at approximately \$4.6 million, while Fort Orange Press' contract was valued at approximately \$6 million.

In an internal memorandum dated May 20, 2020, Ryan certified that there was "insufficient time" to conduct a competitive bid process in connection with the printing of absentee ballots for the 2020 elections, and directed BOE's Agency Chief Contracting Officer "to negotiate with the Board's current Election Day Ballot printers to provide printing and mailing services." The BOE's June 4, 2020 contract with Phoenix Graphics referenced gubernatorial Executive Order 202.26, which allowed county boards of election to procure absentee ballots "without the usual advertising for bids and offers and compliance with existing procurement policies and procedures."

### **3. September 2020 Incident Involving Mismatched Oath Envelopes for Brooklyn Voters**

Under its contract, Phoenix Graphics was required to print, assemble, and mail absentee ballots. Voters in Brooklyn and Queens who requested an absentee ballot received a package from Phoenix Graphics that consisted of four components:

1. The ballot;
2. The oath envelope, which the voter signs to certify that he or she was the person to fill out the ballot. The oath envelope is pre-printed with the voter's name and address. Voters place their completed ballot into the oath envelope;
3. The return envelope, which was addressed to the BOE. After sealing the oath envelope with a completed ballot, voters place the oath envelope into the return envelope and mail the package to the BOE; and
4. The outside envelope, which was addressed to the voter and simply contained the other three components, including the ballot.

In an interview with DOI, Phoenix Graphics President Salvatore DeBiase described his company's printing and assembly process as set



## Investigation into Absentee Ballot Packages Sent to Voters by Phoenix Graphics, Inc.

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forth below. Before the interview commenced, DeBiase was placed under oath.

Pursuant to the June 2020 contract, the BOE regularly sent spreadsheets to Phoenix Graphics listing voters who had requested an absentee ballot. Staff at Phoenix Graphics were responsible for uploading this data into a commercial printing and insertion machine that the company used to print and assemble the ballot packages. DeBiase testified that this machine has no mechanical parts that can be controlled remotely.

Each of the package's four components—ballot, oath envelope, return envelope, and outside envelope—ran through a separate feeder on this machine. First, the machine received a printed ballot, recognized the style of ballot (depending on the election district), and looked up the first voter on the list for that style of ballot. The ballot ran down a conveyer belt on the machine. Second, a return envelope was dropped on top of the ballot. Those two components then continued to proceed down the conveyer belt together. Third, an oath envelope was printed with the identified voter's name, address, and voter ID on an upper track, and the printed oath envelope was then lowered onto the first two components. Fourth, these three items were inserted into an outside envelope and the envelope was sealed. Fifth and finally, the identified voter's name and address was printed on the outside envelope. The name and address printed on that outside envelope should have matched the name and address printed on the oath envelope.

DeBiase stated that, in September 2020, he received a call from the BOE reporting that hundreds of voters in Brooklyn had complained of receiving oath envelopes with someone else's name and address printed on them. In other words, there was a mismatch between voter information that was printed at the third and fifth stages of the above-described process. DeBiase determined that the affected ballot packages had been part of a print run of approximately 99,000 ballot packages. Evidence reviewed by DOI indicates that the vast majority of this job was printed over the course of three days—September 20 to September 22, 2020.

Because the number of voters who were affected was unclear, the BOE instructed Phoenix Graphics to re-process and re-mail all approximately

## Investigation into Absentee Ballot Packages Sent to Voters by Phoenix Graphics, Inc.

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99,000 absentee ballot packages from that print run. Phoenix Graphics did so at its own expense. DeBiase told DOI that he believed the total number of voters affected by this error was “in the hundreds,” which he based upon the number of complaints he believed were received by the BOE. However, BOE Executive Director Ryan stated that staff in the BOE’s Brooklyn borough office estimated that approximately nine to ten thousand voters likely received faulty ballot packages.

DeBiase told DOI that the cause of these mismatched envelopes was not immediately clear. He stated that he and his staff attempted to determine what had gone wrong by considering and re-enacting different scenarios. As part of that inquiry, DeBiase stated that he and his staff discovered two mechanical parts that, if not adjusted properly before the print run, could result in oath envelopes being pushed onto an incorrect pile. One component was the guiderails on the machine’s upper track that should allow the oath envelope to land just as the correct pile is arriving underneath it. The second component was a set of long, metal “fingers” that keep the piles in place as they speed down the conveyer belt. These observations led DeBiase to conclude that the error occurred because the machine was not properly calibrated, leading at least some oath envelopes to “jump the track” and land on top of a mismatched set of components. In a statement posted on Phoenix Graphics’ Twitter account on September 30, 2020, DeBiase attributed the envelope mismatch to “mechanical-inserting issues.”<sup>3</sup>

DeBiase testified that he had never observed the oath envelopes “jumping the tracks” during normal operations, but did see it happen when he and his staff were testing and recreating different scenarios following the failed print run. DeBiase also stated that the guardrails and metal fingers must be adjusted physically and cannot be controlled remotely through a computer, which representatives of the machine’s manufacturer confirmed.

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<sup>3</sup> BOE Executive Director Ryan explained in public comments that the problem resulted from a malfunctioning “trap door” on Phoenix Graphics’ machine, which is not consistent with the documents reviewed by and interviews conducted by DOI. *See, e.g.*, <https://www.ny1.com/nyc/all-boroughs/news/2020/10/02/elections-head-struggles-to-explain-ballot-mess>. A representative of the machine’s manufacturer did tell DOI that he had noticed a broken bolt on a “trap door” that is intended to divert defective packages, but the machine’s sensors would have detected any malfunction of the trap door.

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## Investigation into Absentee Ballot Packages Sent to Voters by Phoenix Graphics, Inc.

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At the time of the affected print run, there was one employee operating the machine. This employee told DOI that he recalled observing one oath envelope fall on top of the wrong pile of components. He stated that he asked for assistance from the manufacturer's technician, who was working on-site that day, and did not see any more oath envelopes drop into the wrong pile. He stated that during the rest of the print run, he conducted spot checks—opening one out of every approximately 500 completed packages to ensure the contents were correct—but did not identify any additional mismatched oath envelopes.

Ordinarily, the printing and insertion machine can generate a detailed report about every print job, which could have potentially revealed the exact cause of the oath envelope errors and how many ballot packages were affected. However, DeBiase stated that by the time he learned of the problem and sought to generate such a report, the machine's history had been deleted as a result of a software installation.

The updated software was installed on or around September 24, 2020, which appears to have been approximately two days after the vast majority of the Brooklyn absentee ballot print run had been completed, but approximately two days before Phoenix Graphics learned that some Brooklyn voters had been receiving mismatched oath envelopes. The machine's manufacturer sent Phoenix Graphics a flash drive containing this software update after Phoenix Graphics reported that one of its machines was not functioning. A Phoenix Graphics employee told DOI that he followed the manufacturer support team's step-by-step instructions when installing the software, which included giving their technicians remote access to view the machine's configuration settings<sup>4</sup> and inserting the flash drive that contained the software update into the machine.

When it was installed, the software update overwrote the data relating to the print and insertion job that created the flawed Brooklyn absentee ballot packages. After Phoenix Graphics employees learned of the mismatched oath envelopes sent to Brooklyn voters and sought to determine the cause of the problem, they discovered that the data reports were no longer accessible on the printing and insertion machine.

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<sup>4</sup> A technician employed by the manufacturer who had been on-site at Phoenix Graphics confirmed that the support team was only able to view the machine's configuration settings.

## **Investigation into Absentee Ballot Packages Sent to Voters by Phoenix Graphics, Inc.**

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Representatives of the machine's manufacturer interviewed by DOI stated that they could not offer an explanation as to what ultimately caused the mismatched oath envelopes without reviewing the data that had been erased during the software update. Although they stated that they were not aware of any instance where an insert had "jumped the tracks" in the way described by DeBiase, they acknowledged that incorrect mechanical setup by the machine operator could lead to errors in the envelope insertion process.

DeBiase also told DOI that although the machine has built-in quality control features, such as a device that checks the thickness of the packages to ensure they contain the correct number of inserts, his staff did not adequately investigate when packages were automatically diverted after failing these quality-control checks. When his staff opened these diverted packages and saw either too few or too many oath envelopes, they simply re-fed the components through the machine. Moreover, mismatched envelopes (rather than too many or too few) would not necessarily trigger these quality-control features.

DeBiase and two other Phoenix Graphics employees testified that they had no reason to believe that anyone at Phoenix Graphics had deliberately caused the envelope mismatch. They all further testified that they had never heard of any employee being asked by any outside party to take deliberate measures in order to disrupt Phoenix Graphics' ballot printing.

DeBiase stated that Phoenix Graphics has implemented new procedures to prevent something similar from happening again. These procedures include having multiple employees check the layout of the machine to ensure it is set up correctly, extracting the data after each print run so that it can no longer be accidentally deleted, conducting more spot checks by opening envelopes at random, inspecting diverted packages, and having employees observe the area where the oath envelope lands to ensure they are landing on top of the correct piles.

## Conclusion

After a thorough investigation, DOI found no evidence that the mismatched oath envelopes sent to Brooklyn voters were the result of any deliberate interference with Phoenix Graphics' printing and assembly process. Likewise, DOI's investigation revealed no evidence that the data deletion as a result of a software installation was purposeful or done with any knowledge of the ballot printing errors. Although the ultimate cause of the incident was undetermined, DOI also could not identify any motivation (election-related or otherwise) for intentionally disrupting the print run—which caused Phoenix Graphics to incur significant additional expense and reputational damage.

Furthermore, DOI did not find evidence that Phoenix Graphics' contract was awarded improperly by the BOE. Although the contract was not procured through a competitive bid process, it was consistent with the emergency procurement authority granted to the BOE by Governor Cuomo, and was awarded to an apparently qualified vendor with extensive prior relevant experience, both with the BOE and other New York county boards of election.