

Hiring & Employment Monitoring Report

**Office of Executive Inspector General
for the Agencies of the Illinois Governor**





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I. Overview

Office of Executive Inspector General for the Agencies of the Illinois Governor

The State Officials and Employees Ethics Act (Ethics Act), 5 ILCS 430/1 et seq., established the OEIG in 2003. The OEIG is an independent executive branch State agency.

The Ethics Act authorizes the OEIG to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, and violations of the Ethics Act, such as prohibited political activity, the “revolving door” prohibition, sexual harassment, the gift ban, and retaliation. The OEIG also investigates allegations of hiring improprieties.

The OEIG’s jurisdiction includes more than 170,000 State employees, appointees, and officials, including: the Governor; the Lieutenant Governor; more than 300 executive branch State agencies, departments, boards, and commissions; the nine State public universities across a dozen campuses; the four Chicago area Regional Transit Boards (the Regional Transportation Authority, the Chicago Transit Authority, Metra, and Pace); and vendors and contractors of any of those entities.

The OEIG’s Leadership Team includes:

Susan M. Haling, Executive Inspector General

Neil P. Olson, General Counsel

Fallon Opperman, Deputy Inspector General and Chief of Chicago Division

Erin K. Bonales, Director of Hiring & Employment Monitoring Division

Christine P. Benavente, Deputy Inspector General - Executive Projects

Angela Luning, Deputy Inspector General and Acting Chief of Springfield Division

Claudia P. Ortega, Chief Administrative Officer

Investigative Division

The OEIG's Investigative Division receives approximately 2,500 to 3,000 complaints every fiscal year from members of the public, State employees, contractors, bidders, and anonymous sources. In the absence of consent from a complainant, the OEIG is required to ensure that the identities of complainants are and will remain confidential unless otherwise required by law. The OEIG also initiates its own investigations based on publicly reported information or information developed during other investigations.

The OEIG evaluates all new complaints to determine the appropriate action, including opening an investigation, referring the allegations to the appropriate entity, or making a referral to HEM. As part of its investigations, OEIG investigators interview witnesses, collect documents, analyze records, conduct surveillance, perform computer forensics, and use a variety of other investigatory tools and techniques. The OEIG also has subpoena power to obtain information relevant to an investigation. At the conclusion of an investigation, if the OEIG determines that there is reasonable cause to believe that a violation of law or policy or wrongdoing has occurred, it will write a founded report that documents the allegations of wrongdoing; facts confirmed by the investigation; and findings. Those founded reports are forwarded to the State of Illinois Executive Ethics Commission (EEC) for their determination on whether the report will be made publicly available.

Anyone seeking to report possible violations may call the OEIG at 886-814-1113; visit www.inspectorgeneral.illinois.gov; send a fax to 312-814-5479; TTY at 888-261-2734; or write to the OEIG Springfield or Chicago offices. The OEIG has complaint forms available in both English and Spanish.

Hiring & Employment Monitoring Division

The OEIG's Hiring & Employment Monitoring (HEM) Division ensures that State hiring procedures and decisions are lawful, merit-based and/or justifiable. The Ethics Act directs the OEIG to "review hiring and employment files of each State agency within [its] jurisdiction to ensure compliance with *Rutan v. Republican Party of Illinois* ... and with all applicable employment laws." 5 ILCS 430/20-20(9). In keeping with this mandate, HEM conducts compliance-based reviews of State hiring and employment procedures and decisions and provides recommendations in order to help improve the efficiency and quality of State hiring.

As part of HEM's compliance work, HEM monitors hiring sequences — which includes in-person or virtual, real-time monitoring of interviews — conducts desk audits, and reviews term appointment renewals, complaint referrals, and Political Contacts. HEM also works with the *Shakman* court-appointed monitor, whose initial and ongoing charge to review hiring practices within the Illinois Department of Transportation (IDOT) has since expanded to include a review of all exempt positions under the jurisdiction of the Governor.

From January 1, 2021 to March 31, 2021, HEM staff monitored 9 hiring sequences, completed 12 desk audits, and reviewed 13 term appointment positions to ensure that individuals were selected pursuant to a truly competitive selection process. HEM staff also reviewed 90 exempt appointment notifications and 54 exempt position description clarifications and received 6 Exempt List modification requests. This quarter, HEM issued 18 Advisories.

The OEIG's Hiring & Employment Monitoring Team includes:

Erin K. Bonales, Director

Tonya Neal, Supervising Analyst

Marina Bergamo, Analyst

Mitch Witkov, Attorney

Amanda Thomet, Analyst

Claire Roche, Attorney

Keshia Wrightsell, Analyst

Natale Fuller, Attorney

Jackie Mullings, Project Manager

Viktorija Legge, Analyst

STATISTICAL PERFORMANCE

AT A GLANCE: SELECTED HIRING AND EMPLOYMENT METRICS FOR THE REPORTING PERIOD





II. HEM's Compliance Reviews

This quarterly report provides an overview of the hiring-related activities of the OEIG during the period from January 1, 2021 through March 31, 2021. The report includes statistics and narrative descriptions of the OEIG's work as required by the Comprehensive Employment Plan for Non-Exempt Employees (CEP).

Hiring Sequences Monitored

HEM monitors hiring sequences at State agencies under the jurisdiction of the Governor's Office to ensure that personnel decisions are competitive, merit-based, and in accordance with governing authority. HEM selects sequences to monitor, in part, by communicating directly with agency human resources personnel or reviewing agency postings on work.illinois.gov. After a sequence is selected, HEM requests and evaluates preliminary paperwork such as the position description and applicant screening decisions, monitors the interviews on-site or via teleconference or video conference, and reviews the resulting documentation including interviewer notes and candidate evaluation forms.

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**Number of Hiring Sequences Monitored
During the First Quarter of 2021**

Desk Audits

In addition to monitoring interviews, HEM completes desk audits of agency hiring sequences. HEM selects sequences to audit by contacting agency human resources personnel for paperwork from a particular hiring file. HEM's review of the documentation is similar to HEM's monitoring of hiring sequences except instead of monitoring interviews in real-time, HEM completes its review after the interviews have occurred. HEM reviews the documentation provided by the agency to ensure all necessary forms are properly completed and evaluates the hiring sequences to determine whether the selection process was competitive and in accordance with governing authority.

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Number of Desk Audits Completed During the First Quarter of 2021

Term Appointments

Historically, term appointment positions, codified in section 8b.19 of the Personnel Code (20 ILCS 415/8b.19), were often deemed *Rutan*-exempt, thus revealing competitive hiring did not occur or likely did not occur. Since term appointees can only be discharged for cause during the pendency of their four-year term, HEM reviews every term appointment renewal to ensure that a competitive process occurred. When agencies have been unable to show that term appointees were originally hired through a competitive process, the agencies must post the term appointment positions at the time of renewal and fill them through a competitive process, which HEM also reviews and/or monitors.

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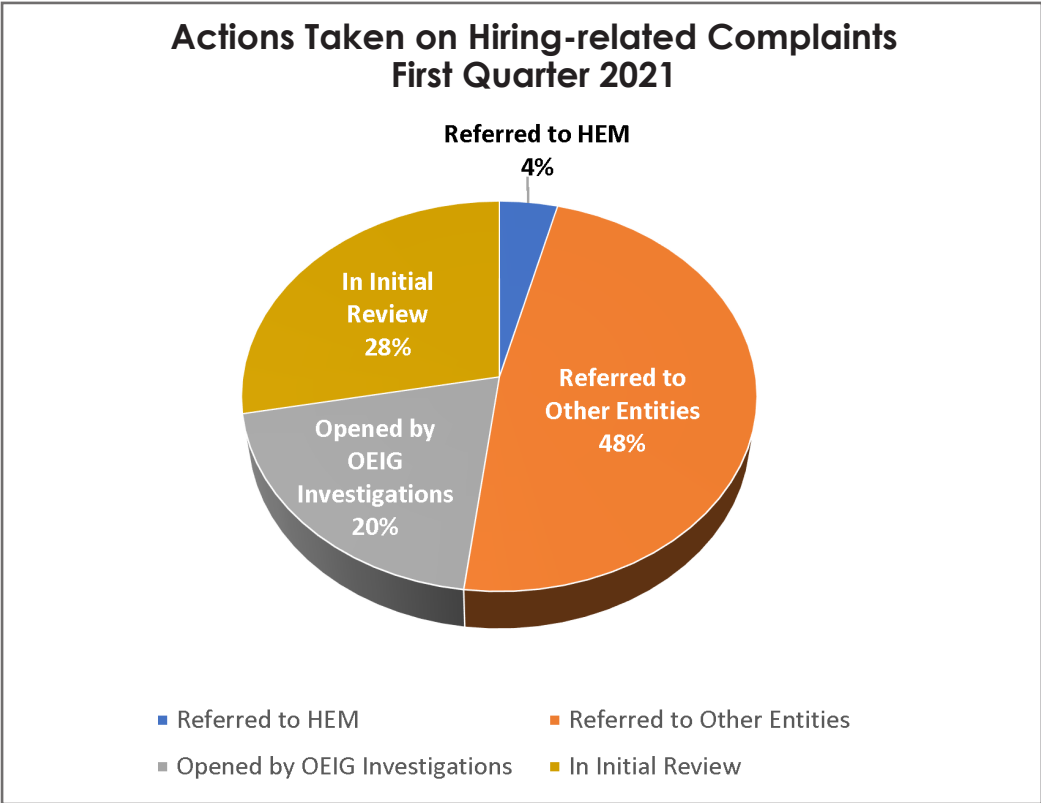
Number of Term Appointments Reviewed During the First Quarter of 2021

Complaint Referrals

The OEIG conducts a review of each hiring complaint it receives and exercises its discretion to determine the most appropriate disposition. Upon receipt of a complaint, the OEIG’s Investigative Division performs an initial review of the allegations, which must be completed within 30 days. After this initial review, the OEIG has the discretion to open an investigation, refer to HEM for a hiring compliance review, and/or refer to other entities, as it deems appropriate. In some instances, HEM’s compliance function makes it best suited to respond quickly to allegations of hiring violations, as HEM can potentially intervene before, during, or immediately after a hiring violation has occurred.

For the first quarter of 2021, the OEIG received 25 hiring-related complaints.¹ Also, in this quarter, the following actions were taken with regard to hiring-related complaints:

- ◇ 1 referred intra-Office to HEM;
- ◇ 12 referred back to the subject agency or other appropriate entity or law enforcement authority;
- ◇ 5 opened by OEIG Investigations;
- ◇ 7 are in initial review.



¹ These numbers include all agencies under the jurisdiction of the OEIG and are not limited to the agencies affected by the *Shakman* litigation.

Advisories

HEM issues written Advisories to the agencies at the conclusion of its review. These Advisories are transmitted to the chief Agency Personnel Officer and the CMS Compliance Officer, with copies to the Governor's Office, the head of the Agency, *Shakman* Plaintiffs' Counsel, and the *Shakman* Special Master and include:

- ◇ a summary detailing the subject and scope of the review;
- ◇ a description of the conclusions regarding compliance with applicable rules and procedures; and
- ◇ recommendations on how to proceed, if necessary.

When, during the course of a HEM review, HEM identifies issues of possible hiring-related wrongdoing that reveal misconduct or may involve political manipulation, as opposed to hiring errors, HEM may transfer the matter to the OEIG Investigative Division for a more in-depth investigation involving OEIG interviews. This quarter, HEM did not transfer any HEM reviews to the OEIG Investigative Division.

During the first quarter, HEM issued 18 Advisories and one Advisory Update.

Based on HEM's review of the hiring file, the following advisories resulted in HEM finding that the agency's selection for the position was merit-based and justifiable without any recommendations:

Advisory	Agency	Position Title	Type of Review
20-HEM-0113	Illinois Department of Human Services (IDHS)	Deputy Director of Forensics and Justice Services	Term Appointment Renewal
20-HEM-0107	Illinois Department of Public Health (IDPH)	Assistant Division Chief of Laboratories	Hiring Sequence Monitoring/Term Appointment Renewal
20-HEM-0084	Illinois Environmental Protection Agency (IEPA)	Deputy General Counsel, Air Regulatory	Hiring Sequence Monitoring/Term Appointment Renewal
20-HEM-0110	Illinois Department of Revenue (IDOR)	Business Processing Division Manager	Hiring Sequence Monitoring/Term Appointment Renewal
20-HEM-0101	Illinois Department on Aging	Older Americans Services Program Administrator	Hiring Sequence Monitoring

The substance of the remaining Advisories are set forth below. In some cases, with the issuance of the Advisory, HEM requested a formal response from the agency, which is also summarized.

20-HEM-0076

HEM reviewed the hiring file and term appointment renewal for the Assistant Chief Examiner at the Illinois Department of Insurance (IDOI). While HEM did not object to the renewal of this term appointment, HEM made several recommendations and also acknowledged that this sequence took place before the Comprehensive Employment Plan (CEP) was in place. Going forward, HEM recommended that IDOI follow the candidate scoring procedures set forth in Section V. H. of the CEP and refrain from using consensus scoring. HEM also recommended that IDOI ensure each interviewer takes notes reflecting a summary of each candidate's response to each interview question, as required by Section V. G. of the CEP, to help ensure hiring decisions are justified.

While acknowledging that the posting included “[t]ravels in the performance of duties” in its description of the position duties and “[r]equires the ability to travel” as a minimum requirement, HEM also noted that the posting did not identify the extent to which the position involves travel, where it travels to, or that the successful candidate would only be required to be in the Chicago office approximately 15% of the time. Going forward, HEM recommended that IDOI provide additional details regarding the position's significant travel duties and work location so that qualified non-Chicago-based applicants are not discouraged from applying.

21-HEM-0002

HEM reviewed the hiring file and term appointment renewal for the Associate Deputy Director-Permanency position at the Illinois Department of Children and Family Services (DCFS). Based on HEM's review, HEM recommended that the agency review the position description, including Box 19, prior to posting any position, and update the position description—and posting and hiring criteria—to include any required and/or preferred qualifications that will be used in the hiring sequence as a basis for scoring. HEM also recommended that the agency review the panel's understanding of the position's requirements prior to interviews and revise the ideal answers/scoring guide to more accurately inform interviewers on the basis for scoring. Finally, HEM recommended that the agency ensure proper supervisory oversight and accountability, which includes administering performance evaluations on an informed and timely basis.

20-HEM-0082

HEM monitored the interviews and reviewed the hiring file for the DCFS Area Administrator for Cook County Child Protection/Cook North. Based on HEM's review, HEM recommended that the agency ensure that all relationships, including working relationships, are disclosed on the Relationship Disclosure & Conflict of Interest Certification Forms (Disclosure Forms) and that anyone involved in the hiring process, such as employees who created the hiring criteria or participated in the screening of applicants, must complete the forms. In addition, HEM recommended that agency personnel revisit the CEP and related training curricula to ensure the scoring process is being completed properly; for example, at the conclusion of each interview, each interviewer should independently score the candidates, and, at the end of all interviews, discuss those initial scores with other panel members.

HEM reviewed the hiring file and term appointment renewal for the IDHS Associate Deputy Director of Clinical Policy, Division of Mental Health position. While HEM did not object to the selection decision, HEM discussed and made a recommendation regarding the grading of one application. HEM found that one applicant appeared to exceed the minimum requirements as stated in Box 19 of the position description but received a failing grade from the Illinois Department of Central Management Services (CMS) Examining & Counseling Division. In response to HEM's questions, the CMS Bureau of Personnel reviewed and agreed that a mistake had occurred and discussed the grading process further with HEM. Had the applicant correctly received an A grade when she initially applied, as a non-state applicant, she would have first been placed on the Open Competitive (OC) List. Based on this, HEM also discussed with CMS ways to proceed to ensure the integrity of this sequence. In response, CMS was able to pull the current, blind OC List for IDHS, SPSA Option 6 in Sangamon County and conduct the same randomization as was done initially for this sequence, selecting the applicant in every fourth slot. CMS determined that though the applicant in question appeared on the then-current list, she was not in one of the nine randomly selected slots. Thus, for this sequence, HEM did not require the agency to interview the applicant. Additionally, the applicant had the opportunity to appeal; there is a process in place to correct grading mistakes; and, the failure to invite the applicant to interview was not an error made by the hiring agency, IDHS. HEM also understands that the electronic application system will provide an opportunity for applicants to grade themselves by answering qualifying questions when submitting their applications, thus connecting their experience directly to the position. However, HEM recommended that agency human resources staff review and check CMS screening decisions to ensure accuracy and appropriateness.

21-HEM-0006

HEM reviewed the hiring file and term appointment renewal for the IDPH Assisted Living Division Chief. Based on HEM's review, HEM recommended that the agency review the position description, including Box 19, prior to posting any position, and update the position description—and posting and hiring criteria—to include any required and/or preferred qualifications that will be used in the hiring sequence as a basis for scoring. HEM also recommended that the agency provide further detail on the Screening Justification Form regarding how the interview pool was created, and suggested meeting with agency personnel to discuss screening forms and decisions to ensure a better understanding of IDPH processes and for HEM to assist IDPH with increased compliance in the future.

As follow-up to this Advisory, HEM and CMS compliance staff met with IDPH human resources staff to discuss how to prevent these issues from recurring.

20-HEM-0103

HEM reviewed the hiring file and term appointment renewal for the Regional Manager, Office of Regional Economic Development/West Central Region position at the Illinois Department of Commerce and Economic Opportunity (DCEO). While HEM did not object to the renewal of the incumbent's term, HEM made several recommendations, acknowledging that the hiring sequence occurred in 2019, prior to the CEP. HEM recommended that the agency, moving forward, ensure Box 19 minimum requirements are applied consistently and are well-documented. Here, it appeared that one applicant was erroneously screened out. Additionally, HEM recommended that the agency revise Box 19 prior to any posting so that it accurately reflects the requirements of the position and that the agency consider clarifying the position's minimum requirements, so this does not occur again. Specifically, HEM recommended further detailing what is meant by "progressive experience" to an extent that does not unnecessarily limit the applicant pool or explain what business or economic development experience in particular is being

sought. HEM recognized that the agency previously responded to similar recommendations and that the agency stated that Box 19 requirements are always reviewed and updated as necessary prior to a position being posted.

HEM also recommended that the agency conform to CMS guidelines on submitting applications for grades and vetting conflicts of interest at least three days prior to the start of interviews. HEM noted that the transition to the electronic application system should mitigate the grading process concerns. Regarding interview questions, HEM recommended that questions equivalent to conditions of employment be asked at the beginning rather than the end of the interview(s). HEM also recommended providing interviewers with more instruction on scoring the education and training criterion, given some discrepancies in the scoring for one education question. While HEM recommended the agency utilize OC Lists, HEM also noted that the electronic application should help with developing a competitive applicant pool.

Due to this being a term appointment renewal, HEM also sought to review the incumbent's prior performance evaluations, which included a previous position at CMS; however, this evaluation was incomplete. Thus, HEM also recommended that CMS ensure proper supervisory oversight and accountability in administering performance evaluations on an informed and timely basis.

20-HEM-0112

HEM reviewed the hiring file and term appointment renewal for the DCFS Area Administrator-Northern Region Permanency position. Based on HEM's review, HEM recommended that the agency ensure that all types of relationships, including a supervisor-subordinate relationship, are disclosed to ensure all potential conflicts are properly vetted. HEM also recommended that interviewer notes and scores are consistently documented and maintained, including who made or assigned them, and that the agency review the panel members' understanding of the position's requirements prior to interviews and revise the ideal answers/scoring guide to more accurately inform interviewers of the basis for the scoring.

20-HEM-0111

HEM reviewed the hiring file and term appointment renewal for the IDPH Laboratory Manager position in the Chicago Laboratory Facility. Based on HEM's review, HEM recommended that the agency ensure that any decisions to bypass a highest-ranked candidate must be pre-approved by CMS.

20-HEM-0095

HEM reviewed the hiring file related to a complaint referral for the IEPA Office Coordinator position. Based on HEM's review, HEM recommended that the agency not only request the OC List but also invite any qualified, eligible candidates who applied directly to the posting. HEM also recommended that the agency request a sufficient number of individuals from the OC List to achieve an ideal pool of 10 candidates for a single vacancy. HEM also recommended that the agency ensure that employees who review, revise, or submit changes to the position description complete a Disclosure Form. HEM further recommended that the agency review the position description, including Box 19, prior to posting any position, and update hiring documentation such as the posting, hiring criteria, and ideal answers, to include any required and/or preferred qualifications that will be used in the hiring sequence as a basis for scoring.

20-HEM-0052

HEM reviewed the hiring file related to a complaint referral for the IDHS Mental Health Technician Trainee and Security Therapy Aide Trainee positions. Based on HEM's review, HEM recommended that the agency ensure that any decisions to bypass a selected candidate based on a pre-employment investigation must be pre-approved by CMS.

21-HEM-0003

HEM monitored the interviews and reviewed the hiring file and term appointment renewal for the IDPH Regional Supervisor for the Bellwood Regional Office of the Division of Long Term Care Field Operations. While HEM did not object to the renewal of the incumbent's term, HEM reiterated previous recommendations to review the position description, including Box 19, prior to posting any position, and update the position description – and posting and hiring criteria – to include any required and/or preferred qualifications that will be used in the hiring sequence as a basis for scoring. Additionally, HEM recommended that the agency use similar language to describe the requirements and preferences throughout the hiring documents, so as not to create confusion. In this sequence, the agency also failed to notify HEM of the interview schedule prior to the first interview. While HEM was able to monitor the rest of the interviews and recognized agency efforts to track and coordinate hiring-related inquiries and requests during the pandemic, HEM recommended that going forward, the agency develop an internal process for timely sending pre-interview documentation to and coordinating interview dates with HEM so that delays in selection decisions are avoided. HEM met with IDPH as a result of this review, as well as 21-HEM-0006 and 21-HEM-0005, in order to discuss how to prevent these issues from recurring in the future.

21-HEM-0005

HEM reviewed the hiring file and term appointment renewal for the IDPH Food, Dairy & Devices Section Chief. Based on HEM's review, HEM recommended that the agency review the position description, including Box 19, prior to posting any position, and update the position description—and posting and hiring criteria—to include any required and/or preferred qualifications that will be used in the hiring sequence as a basis for scoring. Prior to issuing this advisory, HEM and agency human resources staff met to discuss how to prevent this issue from recurring in the future.

21-HEM-0001

HEM reviewed the hiring file and term appointment renewal for the DCFS Statewide Compliance Administrator. HEM observed that after the hiring sequence concluded in September of 2020, the agency clarified the position description effective October 16, 2020. The changes included a new working title (Central & Southern Region Compliance Administrator), updated duties that reflected the new regions for which the incumbent was responsible, and updated Box 19 minimum requirements. Based on HEM's review, HEM recommended that the agency make any necessary changes to the position description at the start of the hiring sequence and reminded the agency of the need to determine the position's minimum requirements prior to posting.

20-HEM-0064

On January 8, 2021, HEM informed both IDHS and CMS in writing of the agencies' failure to comply with HEM's recommendations in HEM Advisory 20-HEM-0064, issued September 4, 2020. The Advisory was based on HEM's hiring file review of the Illinois Department of Innovation & Technology (DoIT)/IDHS Manager, Families, Children, Elderly and Veterans (FCEV) Cluster position. Prior to being offered the position, the top-ranked incumbent candidate informed the agency that he would be retiring. The agency then offered the position to the second-ranked candidate, but this candidate declined, noting that he was instead accepting another offer with DoIT. The agency next sought and received approval from the CMS Chief Compliance Officer to repost the position. In HEM's Advisory, HEM requested that the agency take two actions: 1) update HEM when the position had been posted and coordinate with HEM when scheduling the interviews, should HEM choose to monitor the repost; and 2) inform HEM if the agency begins the process to retain the retired incumbent in any manner. The agency failed to comply with either request. IDHS did not reach out until after interviews had already been conducted. Additionally, HEM was not adequately informed of IDHS' actions taken to rehire the incumbent particularly in light of CMS' assurances that the agency was told such actions would not take place. HEM requested a response from IDHS and CMS regarding these issues.

In its response, IDHS acknowledged IDHS' failures to appropriately track and respond to HEM's requests. IDHS stated that the lack of centralized and comprehensive oversight of the human resources work at IDHS is an issue that the agency has been focusing on. IDHS requested that HEM include the IDHS Senior Policy Advisor on its future advisory emails to IDHS, who will serve as the point person for HEM follow-up. Also, IDHS noted that the IDHS Bureau of Employment Services (BES) and the IDHS Bureau of Recruitment and Selection (BRS) do not share a common tracking database, so BRS was unable to flag the sequence since the sequence was still in BES, which caused a breakdown in communication. The agency stated that under the new electronic application system BRS now controls all merit compensation hires from

start to finish. This change eliminates BES' involvement in the process, and BRS can flag positions that HEM requests to monitor. Finally, IDHS OHR recently received an increase in headcount to help to reduce volume, enhance tracking, and reduce errors.

IDHS also acknowledged that the agency did not effectively communicate internally or externally when IDHS/DoIT staff began to again explore the retired incumbent returning on a temporary basis to onboard his replacement. IDHS suggested meeting with HEM about potential other steps the agency could take to strengthen its processes.

In CMS' response, CMS noted that with the implementation of improved procedures around the posting of positions, including CMS review of positions prior to posting and standardized data, CMS now can provide more effective assistance to agencies in ensuring that requested notices to HEM are given. Additionally, CMS was not aware that the retired incumbent was being temporarily employed, so CMS could not have notified HEM. CMS noted that the new electronic hiring system will allow greater transparency and tracking of employees and employment actions. Furthermore, additional staff in the Chief Compliance Office will also afford CMS with the resources to better track recommendations contained in HEM Advisories. CMS agreed that agencies must be diligent in ensuring follow-through on all HEM requests made both in Advisories and through other compliance functions.

Other HEM Compliance Reviews

Exempt Appointments and Exempt List Modifications

Federal court orders entered in 2019 in the *Shakman* litigation led to the creation of: the Exempt List, a comprehensive list of exempt positions for which hiring and employment decisions may be made on the basis of political or other non-merit factors; and an Exempt Employment Plan for filling positions on the Exempt List. The Exempt Employment Plan provides that candidates selected for exempt positions must meet the minimum qualifications and perform the duties of the exempt position being filled as set forth in the underlying position description. HEM staff reviews notification paperwork (also referred to as the exempt certification paperwork) for all exempt appointments to ensure compliance with the Exempt Employment Plan.

This quarter, HEM received and reviewed 90 exempt appointment notifications for positions on the Exempt List to verify that the selected candidate met the minimum qualifications of the position being filled.

The Exempt Employment Plan also sets forth procedures for adding or deleting positions from the Exempt List, providing that only the Governor or the Executive Inspector General (EIG) may initiate such a change. HEM reviews all Exempt List addition and deletion requests from the Governor's Office and recommends approval of or objection to the proposed change to the EIG, who must respond to the Governor's request within 10 business days.

In recommending approval of or objection to each request from the Governor's Office to add a position to the Exempt List, HEM conducts a comprehensive review of all available information related to the position and request. HEM also reviews the Exempt List to determine the agency's percentage of exempt positions and assess whether any existing exempt positions within the agency could perform the duties of the proposed exempt position. Prior to making a final recommendation, HEM regularly communicates or meets with agency staff with questions about the position's history, duties, reporting structure, and necessity. This quarter, HEM received 5 Exempt List addition requests and 1 request to substantially modify an Exempt List position.

HEM made the following determinations on Exempt List modification requests this quarter:

Exempt List Additions and Deletions by Agency - First Quarter 2021		
Agency	Working Title	OEIG Determination
Illinois Department of Transportation	Deputy Secretary of Administration, Diversity & Legal Affairs	Approved Addition
Illinois Department of Human Services	Deputy Director, Division of Developmental Disabilities, Community Services Programs	Approved Addition
Illinois Department of Human Services	Deputy Director, Division of Developmental Disabilities, Ligas Consent Decree	Approved Addition
Illinois Department of Children & Family Services	Chief Deputy Director, Permanency & Intact Family Services	Approved Modification
Illinois Department of Children & Family Services	Chief Deputy Director, Child Protection & State Central Register	Approved Addition
Illinois Department of Healthcare & Family Services	Administrator, Division of Medical Eligibility	Approved Addition

Position Description Clarifications

HEM also reviews position description clarifications for positions on the Exempt List to ensure that the modifications do not impact the position's exempt status. Position description clarifications can range in substance and can include changes to the position's location/county code, the number of subordinates, the position's responsibilities, or the minimum requirements. HEM reviews these changes and discusses any concerns with CMS and/or the agency regarding whether the clarifications affect the exempt status of the position.

HEM reviewed 54 clarifications to Exempt List position descriptions. HEM did not object to any clarifications this quarter.



III. Political Contacts

HEM reviews all reported or discovered instances where an elected or appointed official of any political party or any agent acting on behalf of an elected or appointed official or political party attempts to affect any hiring or employment action for any Non-Exempt Position by contacting State personnel involved in an employment action whether in person, in writing, by telephone, by facsimile, by e-mail, or any other means. Pursuant to the CEP, any State employee who receives or has reason to believe such Political Contact has occurred, or is occurring, is required to report it to CMS or OEIG HEM within 48 hours of such Political Contact or learning of such Political Contact. CMS is required by the CEP to maintain records documenting all reports of Political Contacts and Political Discrimination.

This quarter, HEM did not receive notice of any Political Contacts.





IV. Developments & Training

Political Contact Portal Launch

During the first quarter, CMS launched an online portal for State employees to report any political contact related to an employment action. As part of the CEP, all unsolicited contacts related to hiring or employment actions for non-exempt positions from any appointed or elected official, or political party, must be reported. For instance, such a political contact could be an unsolicited reference letter from an elected official. The portal can be accessed at <https://ilgov.sharepoint.com/sites/CMSPoliticalContactReporting>. Currently the CMS portal can only be accessed from an “Illinois.gov” address. In order to further facilitate reporting, the OEIG is working on implementing an electronic reporting system through its website. Reports of political contacts can also be made directly to the OEIG through its online complaint reporting system available on the OEIG website.

PSC Reporting by Agency

On February 25, 2021, CMS submitted the State’s first Personal Services Contract (PSC) Report, which accounted for all PSCs in place during the Fourth Quarter of calendar year 2020.² As agreed upon and stated in the CEP, agencies are required to report all PSCs (or renewals or amendments to such contracts) to CMS Compliance and HEM on a quarterly basis. For the past year, CMS worked to produce a comprehensive report, preparing agencies for streamlined data collection, while continuing to transition the State to a new electronic hiring system and train agencies on the CEP. Complementing this work, agency Human Resources staff received guidance on complying with the State’s PSC policy during Session 6 of the CEP training. This training as well as template documents for exempt and non-exempt contracts, a Description of Services, and a Labor Checklist are available on the CMS Personnel Workbench along with a CMS memo issued February 19, 2021 that explains and clarifies the policy and procedures.

² The report does not include PSCs used to pay for the support necessary to meet the accommodations for persons with disabilities. Individuals employed in this way are hired by the person in need of the accommodation without the State’s involvement. Thus, the CEP does not apply to these types of contracts.

The following is a summary of CMS' report regarding PSCs in existence in the Fourth Quarter of 2020.³

Agency	# of PSCs Reported
Abraham Lincoln Presidential Library and Museum	5
Aging, Department on	11
Agriculture, Department of	5
Capital Development Board	1
Central Management Services, Department of	11
Commerce & Economic Opportunity, Department of	7
Corrections, Department of	10
Criminal Justice Authority	11
Deaf & Hard of Hearing Commission	1
Educational Labor Relations Board	2
Emergency Management Agency	22
Employment Security, Department of	45
Financial & Professional Regulation, Department of	26
Gaming Board	1
Healthcare & Family Services, Department of	28
Human Rights Commission	9
Human Services, Department of	134
Innovation & Technology, Department of	10
Insurance, Department of	1
Juvenile Justice, Department of	13
Labor, Department of	1
Law Enforcement Training & Standards Board	4
Lottery, State	1
Military Affairs, Department of	106
Natural Resources, Department of	44
Prisoner Review Board	2
Public Health, Department of	190
Revenue, Department of	5
State Fire Marshal, Office of the	1
State Police	12
State Police Merit Board	1
State Retirement Systems	4
Transportation, Department of	6
Veterans' Affairs, Department of	1
Workers' Compensation Commission	5

³ According to the report, sixteen State entities did not utilize any PSCs in the Fourth Quarter of 2020. These State entities are: the Arts Council; Children & Family Services, Department of; Civil Service Commission; Commerce Commission; Council on Developmental Disabilities; Environmental Protection Agency; Guardianship & Advocacy Commission; Human Rights, Department of; Independent Tax Tribunal; Labor Relations Board; Liquor Control Commission; Pollution Control Board; Power Agency; Property Tax Appeal Board; Racing Board; and Sentencing Policy Advisory Council.



V. Hiring Investigations

Upon receipt of a complaint, the OEIG's Investigative Division performs an initial review of the allegations, which must be completed within 30 days. After this initial review, the OEIG has the discretion to open an investigation, refer to HEM for a hiring compliance review, or refer to other entities, as it deems appropriate. In addition, the OEIG also has the authority to self-initiate an investigation based on information discovered in other investigations or available via public sources. Cases may also be transferred to the Investigative Division from HEM when a HEM hiring review reveals evidence of intentional wrongdoing that requires a more in-depth inquiry, or evidence of unlawful political discrimination.

After an investigation, the OEIG issues (1) a summary report concluding reasonable cause exists to believe a violation has occurred (a "founded summary report"), or (2) a statement of the decision to close the investigation when there is insufficient evidence that a violation has occurred (an "unfounded summary report"). Founded summary reports document:

- the allegations of wrongdoing;
- facts confirmed by the investigation;
- an analysis of the facts in comparison to the applicable law, rule, or policy; and
- findings and recommendations.

In accordance with State law, the OEIG provides founded reports to the head of each agency affected by or involved with the investigation and the appropriate ultimate jurisdictional authority. The agency or ultimate jurisdictional authority is required to respond to the report and its recommendations within 20 days. Within 30 days after receiving the agency response, the OEIG must forward a copy of the founded report and the agency response to the Executive Ethics Commission (EEC).⁴ Pursuant to the Ethics Act, the EEC is the only entity permitted to determine the public release of OEIG founded summary reports.

⁴ The exception is when the OEIG forwards a complaint to the Attorney General's Office to pursue an Ethics Act violation before the EEC.

At the close of this quarter, the OEIG had 32 hiring-related investigations pending.⁵ Four hiring-related investigations were closed this quarter.

During the first quarter, the OEIG did not issue any founded reports related to hiring.

This quarter, the EEC made one OEIG founded report related to hiring available to the public: In re: JuanPablo Prieto, Case # 19-01088. Below is a summary of this hiring-related founded report. The redacted report, as well as previous publicly released reports, are available at www.inspectorgeneral.illinois.gov.

In re: JuanPablo Prieto, Case # 19-01088

The OEIG received a complaint alleging that Chicago Transit Authority (CTA) Director of Diversity Programs JuanPablo Prieto improperly favored Hispanic-owned businesses that participated in or sought to participate in the CTA's Disadvantaged Business Enterprise (DBE) Program. During the investigation, the OEIG learned that Mr. Prieto may have improperly influenced the hiring process for a Certification Specialist position in the Diversity Programs Department, and accepted a ticket to a golf outing from a DBE vendor in violation of the Ethics Act gift ban prohibition.

With respect to the allegation that Mr. Prieto improperly influenced the hiring process for a Certification Specialist position, the OEIG discovered that in January 2019, Mr. Prieto requested that the Human Resources (HR) Department add a candidate to the pool of applicants to be interviewed for the position, after the HR Department had already determined that this candidate would not move forward in the hiring process. The OEIG learned that Mr. Prieto had a personal relationship with this candidate and that, in requesting that the candidate be interviewed, Mr. Prieto did not disclose this relationship and in fact misled other CTA employees about the true nature of their relationship. The candidate was interviewed but did not receive an offer from CTA.

The OEIG found that Mr. Prieto improperly attempted to influence a hiring process and thus, acted in a manner unbecoming of a CTA employee.

⁵ These numbers include all entities under the jurisdiction of the OEIG and are not limited to the agencies affected by the *Shakman* litigation.

Further, the OEIG learned that in August 2019, Mr. Prieto attended a golf outing as the guest of a DBE vendor that was awarded CTA subcontracts worth approximately \$1,547,432 before and after the outing, and that the vendor's owner paid for the ticket, which cost \$400. Because the acceptance of the ticket did not fall within an exception to the Ethics Act's gift ban, the OEIG found that Mr. Prieto violated the gift ban by accepting a gift from a prohibited source and, in doing so, also created an appearance of impropriety because his attendance as the vendor's guest could be reasonably viewed as exceeding the boundaries of his professional relationship with the vendor, especially considering the contracts awarded to the vendor before and after the event.

At the conclusion of the investigation, the OEIG recommended that the CTA take whatever action it deemed appropriate regarding Mr. Prieto. The OEIG also recommended that CTA ensure that Mr. Prieto is aware of the CTA's hiring policies and procedures, including any that relate to disclosing personal relationships, and that the CTA consider developing policies to provide guidance about the types of events that are considered outreach and who should pay for these events if an employee attends.

In its response, the CTA stated that it agreed with the OEIG's findings. In addition, the CTA responded that Mr. Prieto will receive additional training regarding CTA's hiring procedures and Ethics Ordinance, and that he will be directed to refund the full value of the ticket to the golf outing. The CTA also responded that the DBE vendor in question will be directed to not offer gifts to CTA employees in the future. Finally, the CTA responded that targeted training will be provided to employees who conduct outreach about avoiding the appearance of impropriety when interacting with vendors.



Appendix

Percentage of Exempt Positions by Agency First Quarter 2021		
Agency	Agency Headcount¹	% Exempt Positions²
Abraham Lincoln Presidential Library and Museum	84	14%
Aging	152	11%
Agriculture	332 ³	6%
Arts Council	13	31%
Capital Development Board	118	14%
Central Management Services	738	7%
Children & Family Services	2850	2%
Commerce & Economic Opportunity	273	18%
Corrections	12600	1%
Council on Developmental Disabilities	6	17%
Criminal Justice Authority	69	13%
Deaf & Hard of Hearing Commission	4	50%
Emergency Management Agency	179	10%
Employment Security	1033	3%
Environmental Protection Agency	637	3%

1 The agency headcount was obtained from the FY2020 SERS Headcount Tracker Table (June 2020) provided in the FY2021 Budget Summary.

2 The percentage was obtained using the number of exempt positions on the January 13, 2021 Exempt List and the agency headcount.

3 For the Third and Fourth Quarter 2020 HEM Reports, the agency headcount for the Department of Agriculture was incorrectly listed as 590 and the percentage of exempt positions as 3%. The correct headcount was 332 for both quarters, based on the FY2020 SERS Headcount Tracker Table (June 2020) in the FY2021 Budget Summary, and the percentage of exempt positions was 6%.

Agency	Agency Headcount	% Exempt Positions
Financial & Professional Regulation	411	16%
Gaming Board	165	9%
Guardianship & Advocacy Commission	106	10%
Healthcare & Family Services	1809	2%
Human Rights	130	11%
Human Services	13196	0.8%
Innovation & Technology	712	9%
Insurance	207	10%
Juvenile Justice	876	4%
Labor	81	14%
Liquor Control Commission	43	21%
Lottery	149	5%
Military Affairs	224	2%
Natural Resources	1490	2%
Prisoner Review Board	25	4%
Property Tax Appeal Board	35	14%
Public Health	1171	4%
Revenue	1364	3%
Sentencing Policy Advisory Council ⁴	5	20%
State Fire Marshal	144	6%
State Police	2861	0.4%
Transportation	5181	2%
Veterans' Affairs	1210	1%
% of Exempt Positions Based on Total Headcount	50683	2%

⁴ The agency headcount was based on information found on the agency's website.