



Illinois State Toll Highway Authority

Office of the Inspector General

SUMMARY ACTIVITY REPORT

For the period March 1, 2021 through August 31, 2021

Theodor J. Hengesbach
Inspector General

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OFFICE OF THE INSPECTOR GENERAL
Theodor J. Hengesbach – Inspector General

SUMMARY ACTIVITY REPORT

To: The Office of the Governor
The Board of Directors of the Illinois State Toll Highway Authority
The State of Illinois General Assembly

From: Theodor J. Hengesbach, Inspector General *JH*

Date: September 30, 2021

Re: Office of the Inspector General Summary Activity Report for the Period Spanning
March 1, 2021 to August 31, 2021.

INTRODUCTION

We submit this report pursuant to Section 8.5 of the Toll Highway Act (the Act).¹ The Act created the Office of the Inspector General (OIG) to provide independent oversight of the Illinois Tollway. The Illinois Senate confirmed the appointment of Theodor J. Hengesbach on February 8, 2017. On August 31, 2020, Governor JB Pritzker re-appointed Hengesbach to a second five-year term.

MISSION/JURISDICTION

The OIG's mission is to foster effectiveness and efficiency in Tollway administration and operations by promoting integrity and accountability of the Tollway board, Tollway employees, and Tollway contractors and vendors. In furtherance of its mission, the OIG strives to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement.

The OIG derives its authority and direction from the Illinois Toll Highway Act² and the Illinois Administrative Code.³

¹ 605 ILCS 10/8.5(m) provides: The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly.

² 605 ILCS 10/8.5

³ ILL. ADMIN. CODE title 2, sec. 3430 (2011).

By statute, the OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.⁴ As a general rule, the OIG does not become involved in cases involving private disputes, labor-management issues, or litigation. Matters investigated by the OIG may also fall within the jurisdiction of other agencies (e.g., federal, state, or local law enforcement, other inspectors general, etc.). In such cases, the Inspector General is authorized to refer matters or work jointly with these other agencies to investigate allegations of wrongdoing.

The OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. In addition, the OIG reviews Tollway policies and procedures, and employment and hiring files, and serves as liaison to law enforcement entities.⁵

STAFF

The OIG is currently staffed with a General Manager of Investigations, an Investigator II, 2 Investigator Is, and an Executive Secretary. The Inspector General, General Manager of Investigations, and the Investigator II are certified by the National Association of Inspectors General and the Association of Certified Fraud Examiners. In addition, the Inspector General and the General Manager of Investigations continue as active members of the Board of Directors for the Illinois Chapter of the Association of Inspectors General. The Inspector General currently serves as Vice-President of that Board.

INTAKES

The OIG receives complaints and reports of concerns and allegations of wrongdoing⁶ from the general public, Tollway officials and employees, vendors, bidders, and anonymous sources. These are screened and assessed to determine the most appropriate action, which can include opening a Preliminary Investigation (PI),⁷ an Investigation (IG), a Review (R), or an Investigative Assistance case (IA).⁸ The OIG can also refer matters, as appropriate, to Tollway management, law enforcement or another entity, or decline to open a case.

Factors that impact this decision include: the reliability and accuracy of information based on the OIG's knowledge of the subject matter; the nature of the conduct alleged and the ability to independently verify the allegations; the age of the conduct complained of; the likely impact on Tollway operations; and the availability of investigative resources.

Most often matters are opened as Preliminary Investigations, which are limited scope inquiries of 30-60 days to develop and evaluate available information to determine the most appropriate next action.

The OIG also receives a number of complaints and calls relating to I-PASS concerns, or toll violations and fines that we refer to the Tollway Operations Customer Service section.

By law, the identity of any individual providing information or reporting possible or alleged

⁴ See 605 ILCS 10/8.5(d).

⁵ See 605 ILCS 10/8.5(f).

⁶ The OIG can also self-initiate investigations and reviews.

⁷ A Preliminary Investigation is initiated to conduct limited-scope inquiries to determine the next appropriate action. Generally, these inquiries are open for 30 days, although one 30-day extension may be approved by the Inspector General.

⁸ Investigative Assistance matters include tracking of employee arrests and requests for information or subpoenas from law enforcement, regulatory agencies, or other Inspectors General.

misconduct to the OIG may not be disclosed without consent of that individual or as otherwise required by law⁸. Furthermore, state and federal Whistleblower laws prohibit retaliation against individuals who provide information to or cooperate with an OIG investigation.

The Tollway OIG Hotline (866-786-5544) provides one of several means by which the OIG receives reports of wrongdoing. During this reporting period, there were 98 incoming calls, more than double the number received in the prior six months.

A second source of information is the OIG online electronic form that allows individuals to provide information in a secure, confidential manner. This form can be accessed through the OIG webpage; it is encrypted upon submission and delivered directly to a secure OIG email account. During this reporting period, the OIG received 50 online submissions, which is consistent with the prior reporting period.

From March 1, 2021 through August 31st, 2021, the OIG took action in 154 matters:

Preliminary Investigations	10 opened 8 closed 3 converted (1 Investigation, 2 Reviews)
Investigative Assistance ⁹	4 opened 3 closed
Investigations	5 opened 5 closed
Reviews	2 opened 2 closed
Referrals	123 matters referred 2 to Law Enforcement
Declined	10 matters

As of August 31, 2021, the following matters were pending¹⁰:

Preliminary Investigations	5
Investigative Assistance	1
Investigations	7
Reviews	5

⁹ On October 1, 2017, responsibility for responding to law enforcement subpoena requests for Tollway records transitioned from the OIG to the Legal Department.

¹⁰ These numbers include carry-over from previous reporting period.

REPORTS OF FINDINGS

Summary Reports of Investigation detailing sustained findings and/or recommendations for corrective action are submitted to the Board Chair, the Executive Director and appropriate management officials. Summary reports resulting in discipline of more than 3 days are publicly released in redacted form on the OIG website. The OIG also issues Management Advisory Reports to the Board Chair, the Executive Director and appropriate management officials, which describe operational concerns observed by the OIG in the course of its activities.

There were no recommended administrative actions or matters submitted for consideration to the Governor, the Board of the Authority, or the General Assembly during this period.

The following are summaries of OIG reports issued between March 1, 2021 and August 31, 2021.

SUMMARY REPORTS OF INVESTIGATION

OIG Investigations Resulting in Administrative or Corrective Actions¹¹

IG-20-005

The OIG completed an investigation of an anonymous allegation about a possible conflict of interest regarding a former senior manager. Specifically, the complaint alleged that the employee's role in the procurement and management of a Tollway contact with a specified vendor was improper because the vendor had hired the employee's child.

This investigation established that in 2014 a former senior manager made a timely disclosure to the Tollway Ethics Officer and Board of Directors of their child's proposed employment at the vendor. Recognizing the Tollway policy against employees, or their relatives who live with them, from working for a Tollway vendor, the senior manager sought and received a "waiver" from the Board and agreed to take several steps to avoid a conflict. Consistent with this voluntary recusal, the senior manager was not part of the Selection Committee that subsequently recommended awarding that vendor a contract. However, the senior manager had also agreed not to sign that vendor's invoices, and the OIG obtained and reviewed several years of invoices that showed that 24 of 134 invoices between January 2015 and January 2020 had been signed by the senior manager despite knowledge of those in the approval chain not to forward such invoices. Some of these invoices had been signed between January and June 2015, before the employee's child had moved out of the family home.

The investigation did not find that the former senior manager intentionally violated Tollway policy, and the large volume of monthly invoices coupled with the Tollway's complex invoice review and approval process likely contributed to this break down. However, the OIG determined that the senior manager did bear some responsibility for not catching invoices especially during the time their child lived in the family home, and would have recommended corrective action had that employee still been working for the Tollway.

¹¹ The OIG includes summaries of reports for which corrective or disciplinary action has been taken. In this reporting period, one case for which the OIG recommended discipline is awaiting a decision and so it will be included in the next Semi-Annual Report.

The OIG investigation identified gaps in the Tollway's conflict of interest disclosure and assessment process that expose Tollway employees to the risk of engaging in actions that rise to the level of apparent or real conflicts. The OIG made several recommendations for policy and procedure improvements to standardize and document disclosures, assessments, and determinations of potential conflicts of interest involving employees.

Response

In response, the Tollway stated that it agreed with the OIG findings and was reviewing its policy and procedures to make changes to address potential conflicts of interest involving employees and vendors that will include a robust monitoring component,

IG-21-002

An OIG investigation found that a Mechanic completed training related to their outside employment via Zoom videoconferencing while they were assigned to drive a snow plow for the Illinois Tollway. The Mechanic denied doing so in their OIG interview and claimed they had gotten approval from their outside employer to make up the training at a later date. The OIG's investigation determined that both statements were false after reviewing Tollway records and speaking with the Mechanic's outside employer. These facts established reasonable cause to find that the Mechanic violated Tollway policy by completing part of their required training for their outside employment while on snow duty, and by falsely denying to the OIG that they had done so.

Based on these findings, the OIG recommended that the Mechanic be disciplined up to and including discharge; most notably for their failure to provide truthful responses during an OIG interview.

Response

The Tollway agreed with the findings, placed the Mechanic on unpaid leave, and presented them with charges seeking termination. In response, the Mechanic acknowledged completing training via Zoom while driving a Tollway snowplow and admitted making false assertions to the OIG. Citing the employee's long employment record and strong work history, the Tollway converted the 35-day unpaid leave to an unpaid disciplinary suspension, and established that any further misconduct would lead to discharge without the ability to grieve.

IG-21-004

An OIG investigation established reasonable cause to find that a Parts Clerk used Tollway equipment including their work computer, office supplies, and desk telephone to conduct personal business as well as activities related to their elected position while at work. Photographs taken of their work space and computer screen reflect non-Tollway activity using Tollway resources. In addition, Tollway records reveal that the Parts Clerk made numerous non-Tollway calls using a Tollway telephone.

These actions violated Tollway Policies and the Tollway Code of Ethics and the OIG recommended that the Tollway take corrective action and impose discipline it deemed appropriate up to and including discharge.

Response

The Tollway agreed that these acts violated Tollway policies and the Tollway Code of Conduct and presented the Parts Clerk with charges identifying these violations and seeking termination. After reviewing the employee's response, the Tollway determined that there were sufficient grounds to terminate the Parts Clerk's employment. This disciplinary action has been grieved.

IG-21-007

The Office of the Inspector General completed an investigation that established reasonable cause to find that an Equipment Operator Laborer (EOL) failed to disclose either their appointment to a Village Planning and Zoning Committee or their subsequent election to the Village Commission.

The EOL confirmed they were a longtime Tollway employee and had received copies of the Tollway Personnel Manual over the years, but claimed they were not aware that positions like these needed to be disclosed. The OIG recommended corrective action including submission of accurate disclosures and discipline as deemed appropriate. In addition, the OIG made several recommendations to improve employee disclosure by ensuring consistent, centralized messaging and guidance.

Response

The Tollway agreed with the findings, provided additional ethics training to the employee and required them to submit accurate disclosures, but declined to impose discipline. The Tollway further stated that it would review current disclosure processes.

MANAGEMENT ADVISORIES

R-20-001 and -003

The OIG completed two Reviews (R-20-001 and R-20-003) that involved Rutan-exempt Tollway positions filled between May 2019 and March 2020. R-20-003 was self-initiated and involved 15 employees identified from the Department of Administration's Processing Log who were hired into 14 different Rutan-exempt positions, and R-20-001 arose from an allegation that a newly-created position had not been properly certified as Rutan-exempt before being filled.

Our reviews included examining available documentation such as position descriptions, applications, resumes, and other hiring materials, as well as conducting interviews as necessary. Although the initial focus of each review was different, both assessed compliance with basic Rutan-exempt hiring requirements, and we ultimately determined that the Tollway followed its improved selection processes with these hires.

However, the reviews identified some areas for additional improvement, including: ensuring that all supporting documentation is included in the hiring file, and ensuring consistent use of meaningful justification memos that explain how each proposed hire meets minimum education and experience qualifications and is otherwise most suitable for hire.

Finally, recognizing the importance of accurate and complete position descriptions, the OIG recommended that the Tollway implement a process that documents how position descriptions are drafted, assessed, approved, and annually reviewed.

Response

The Tollway agreed with the OIG recommendations to improve the hiring process and documentation, and pledged to monitor compliance with this improved process.

SUMMARY OF OTHER ACTIVITY

In addition to the activities described above, the Inspector General and OIG staff have engaged in other related projects, including:

- The RFP for the OIG's case management and workflow database was published in June, and the selection committee reviewed and evaluated 2 responsive proposals. The OIG greatly appreciates assistance from Information Technology, Internal Audit, and Procurement in this process, especially the effort of evaluation committee members.
- Regular engagement with Tollway stakeholders, including the Board Chair, Audit Chair, Internal Audit, Labor Relations, EEO/ADA, and Executive staff about common issues and ways to improve.
- Provided feedback to Strategic Planning on Third Party Risk Management.
- Collaborated with Ethics, Internal Audit, and Legal on the Conflict Review Committee and Ethics-related initiatives.