



Illinois State Toll Highway Authority

**Office of the Inspector General**

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**SUMMARY ACTIVITY REPORT**

March 1, 2024 through August 31, 2024

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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 *TH*

**Date:** September 30, 2024

**Re:** Office of the Inspector General Summary Activity Report for the Period  
Spanning March 1, 2024 to August 31, 2024.

**INTRODUCTION**

We submit this report pursuant to Section 8.5 of the Toll Highway Act (the Act).<sup>1</sup> The Act created the Office of the Inspector General (OIG) to provide independent oversight of the Illinois Tollway. The Illinois Senate confirmed the re-appointment of Theodor J. Hengesbach to a second five-year term that runs through July 2025.

**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.

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<sup>1</sup> 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.

The OIG derives its authority and direction from the Illinois Toll Highway Act<sup>2</sup> and the Illinois Administrative Code.<sup>3</sup>

By statute, the OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.<sup>4</sup> 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.<sup>5</sup>

## STAFF

The OIG is currently staffed by a Deputy Inspector General, a General Manager of Investigations, two Investigator IIs, two Investigator Is, and an Executive Secretary.

The Inspector General, Deputy Inspector General, General Manager of Investigations, two Investigator IIs and two Investigator I's are certified by the national Association of Inspectors General. The Inspector General, General Manager of Investigations, both Investigator IIs, and one Investigator I are 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.

The position of Information Analyst is vacant, and the posting is pending re-allocation of office space.

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<sup>2</sup> 605 ILCS 10/8.5 605 ILCS 10/8.5.

<sup>3</sup> ILL. ADMIN. CODE title 2, sec. 3430 (2011).

<sup>4</sup> See 605 ILCS 10/8.5(d).

<sup>5</sup> See 605 ILCS 10/8.5(f).

## INTAKES

The OIG receives complaints and reports of concerns and allegations of wrongdoing<sup>6</sup> 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),<sup>7</sup> an Investigation (IG), a Review (R), or an Investigative Assistance case (IA).<sup>8</sup> 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 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 misconduct to the OIG may not be disclosed without consent of that individual or as otherwise required by law.<sup>9</sup> Furthermore, state and federal Whistleblower laws prohibit retaliation against individuals who provide information to or cooperate with the OIG.

The OIG receives reports of wrongdoing in many ways: in person, by telephone, facsimile, and US and Electronic mail. The Tollway OIG Hotline (866-786-5544) is one of the two primary means by which the OIG receives such reports. During this reporting period, there were 46 incoming Hotline calls.

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<sup>6</sup> The OIG can also self-initiate investigations and reviews.

<sup>7</sup> 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 30-day extensions may be approved by the Inspector General.

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

<sup>9</sup> See 605 ILCS 10/8.S(k)(l).

A second primary 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 30 online submissions.

From March 1, 2024 through August 31, 2024, the OIG took action in **104** matters:

Preliminary Investigations	12 opened 17 closed 11 converted (3 IGs, 6 Referrals, 2 Reviews)
Investigative Assistance <sup>10</sup>	0 opened 0 closed
Investigations	3 opened 8 closed 2 converted (2 Referrals)
Reviews	4 opened 2 closed
Referrals	66 matters referred 6 to Law Enforcement
Declined	19 matters

As of August 31, 2024, the following matters were pending<sup>11</sup>:

Preliminary Investigations	7
Investigative Assistance	0
Investigations	3
Reviews	6

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<sup>10</sup> On October 1, 2017, the I-Pass Privacy Policy was revised, and responsibility for responding to law enforcement subpoena requests for Tollway records transitioned from the OIG to the Legal Department.

<sup>11</sup> These numbers include carry-over from the 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, the Board of Directors, and appropriate management officials. Summary reports resulting in discipline of more than 3 days are publicly released in redacted form on the OIG website after the discipline has been finalized.

The OIG also issues Management Advisory Reports to the Board Chair, the Executive Director, the Board of Directors, 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 or the General Assembly during this period.

The following are summaries of four Summary Reports of Investigation and two Management Advisory Reports issued between March 1, 2024 and August 31, 2024.

### SUMMARY REPORTS OF INVESTIGATION

#### IG-23-012

An OIG investigation established reasonable cause to find that two former Tollway high-level managers mismanaged the 2020 “audit” of Tollway-issued non-revenue transponders, and subsequent discipline of more than 400 Tollway employees. Ultimately, much of the discipline for non-revenue transponder misuse identified during this “audit” was reduced to written reprimands and repayment of the improper tolls.

OIG initiated a preliminary investigation after an employee alleged that they were unfairly targeted and disciplined for improper transponder use. OIG’s investigation found that the Tollway did not treat the employee differently than any other Tollway employee when determining and issuing discipline as a result of the transponder “audit.” Therefore, those allegations were not sustained.

However, OIG’s investigation revealed that the two former high-level managers, who initiated the process and developed the disciplinary rubric, failed to consider relevant collective bargaining agreements (CBAs), failed to communicate effectively with department-level management about how to identify and process violations, and failed to coordinate the disciplinary process among the various stakeholders. Had those former employees still worked for the Tollway, OIG would have recommended corrective action.

In its recommendation, the OIG noted that the Tollway had recently taken positive steps to provide more specific guidance on non-revenue transponder use and developed a

better tracking mechanism to ensure employee accountability. OIG recommended that the Tollway standardize its disciplinary process to comply with all relevant CBAs, and ensure clear and consistent communication with employees and their managers when instituting or changing protocols that could result in discipline.

### Response

The response was expected on May 29, 2024 and received August 5, 2024.

The Tollway agreed with the findings and reported that it had reviewed and revamped the Non-Revenue Transponder Program, which now sets forth specific details of what constitutes a violation, the timeline to address the violation, as well as potential disciplinary measures. The process rolled out in mid-2024, provides that each month Administration monitors non-revenue transponder use and, in the event of potential misuse, Departments are notified and have 15 business-days to submit documented proof of resolution for each identified transaction.

### **IG-23-010**

An OIG investigation established reasonable cause to find insufficient oversight and management of additional work assigned to and performed by a Tollway vendor from 2019 through 2021. Specifically, OIG's investigation found that the Tollway repeatedly directed and allowed the Vendor to perform work that the Vendor identified as being outside the scope of the contract without agreement on price or payment, and without Board approval. Shortly before the contract expired, the Vendor presented the Tollway with a "request to discuss" payment of more than \$2,000,000 for this out-of-scope work, which it subsequently "discounted." Since there was no active contract that covered this work, and critical approval processes had not been followed, the Tollway was unable to use standard payment mechanisms and ultimately had to resolve this dispute with a Board-authorized settlement of just over \$1,000,000.

Documents and testimony established that this situation resulted from a collective failure by Tollway and Vendor personnel who appear to have sacrificed process in favor of convenience and expedience. OIG recommended that the Tollway ensure adherence to all procurement processes including obtaining necessary Board approval. To the extent that vendors need to perform work outside the scope of an approved contract, the Tollway should ensure that costs are fully approved and documented prior to commencing the work.

The Tollway employees most responsible for directing and allowing this unauthorized work are no longer employed at the Tollway. Had those former employees still worked for the Tollway, OIG would have recommended corrective action.

## Response

The response was expected on July 5, 2024 and received September 24, 2024.

The Tollway acknowledged that in cases, such as this, where a vendor believes that extra work would result in costs that exceed the upper limit of the contract, any required increase must be approved by the Tollway Board of Directors prior to any additional services are performed.

In response to the OIG recommendations, the Tollway said that it will conduct training on procedures regarding performance of out-of-scope work to ensure that all Tollway and vendor personnel understand the process. In addition, the Tollway will update its contract management documents for capital program projects so that expectations are established with consultants performing work with the Tollway from the outset. These actions will be taken by December 31, 2024.

Finally, the Tollway confirmed that, per standard protocol, Board approval will be sought in cases where the upper limit of compensation must be increased, which has been done on several occasions since 2021.

### **IG-23-008**

An OIG investigation established reasonable cause to find that a former Tollway employee drove for Lyft and did so multiple times during their Tollway work hours when they worked remotely. When questioned by the OIG, the employee denied working a second job while on Tollway time. OIG subsequently learned that the employee resigned shortly after their OIG interview.

Had the employee remained a Tollway employee, OIG would have recommended that the Tollway impose discipline, up to and including discharge. Therefore, OIG recommended that the Tollway issue a formal determination regarding OIG's findings, designate the former employee as ineligible for rehire, and place a copy of this report in their personnel file.

## Response

The response was expected on August 7, 2024, and received August 5, 2024.

The Tollway confirmed that the employee had resigned and has been designated ineligible for rehire.



## IG-22-005

OIG completed an investigation into allegations of possible improper influence in the hiring of a consultant in 2021 by a Tollway subcontractor. This investigation confirmed that a former high-level Tollway official had a longtime work relationship and ongoing friendship with the consultant and that the Tollway provided the consultant's name to the Tollway prime contractor prior to the consultant being hired by the subcontractor. OIG found that the documents and testimony establish a reasonable basis for the consultant's hire and do not support a finding of improper influence in this case.

However, the OIG recommended that the Tollway consider developing a formal process for stakeholders to recommend potential talent to vendors on Tollway projects. In addition, in this case it appears that the subcontractor's sole function is to submit invoices for the consultant's work, which raises a concern that the subcontractor does not provide a commercially useful function, as required by the Tollway's Special Provision for Disadvantaged Business Enterprise Participation. The OIG also raised concerns about the contractually required 2.8 Direct Labor Multiplier received by the subcontractor given the subcontractor's minimal involvement in this transaction, and recommended that the Tollway review the multiplier provisions given the rise in remote working.

### Response

The response was expected on August 7, 2024. The initial response was received August 21, 2024, and updates were subsequently provided.

1. The Tollway responded that while it does not have a formal process for stakeholders to recommend talent, it believes the current process of requiring consultants to submit the candidate's resume and letter indicating the reason for the request is sufficient. This provides the Department Chief the opportunity to review the candidate info and reject the proposed candidate if they do not meet the qualifications. The Tollway will review further to determine if a more formal process is required.

2. The Tollway reported that it has reviewed its Direct Labor Multiplier criteria and, given the available choices under the contract, the 2.8 multiplier was appropriate, because the consultant did not work out of a Tollway facility and the Tollway did not provide any equipment. Understanding that the current work environment has changed since COVID with more remote work opportunities, the Tollway acknowledged that it can work internally, and with the consultant community as well, to consider whether to make any changes to the current Direct Labor Multiplier.

3. The Tollway confirmed that under the current process a vendor must document how they will meet the DBE/BEP participation goal for that contract. The value of payments to DBEs/BEPs that actually perform a Commercially Useful Function will count toward

achievement of the goal. In this case, the consultant provided services not identified in the subcontractor's scope of work for this contract. Therefore, the Tollway agreed with the OIG recommendation, and the value of payments made to this consultant will not be credited toward the Vendor's DBE participation goal.

## MANAGEMENT ADVISORY REPORTS

### R-23-003

OIG initiated an inquiry after a DBE vendor (Vendor) cited concerns with Tollway procurement processes. This Vendor has performed as a subcontractor on Tollway projects and has participated in the Tollway Technical Assistance (TA) program as a client and as a provider. In fact, several Tollway presentations cited this company as an example of successful diversity outreach. Despite the company's experience and engagement with the TA program, the Vendor expressed frustration after the Tollway failed to enter into contracts with them despite being the lowest bidder on two projects.

Based on these experiences, the Vendor felt that small businesses like theirs were being treated unfairly, which has caused them to reconsider bidding on future Tollway projects.

OIG's review found that unique circumstances provided reasonable grounds for the Tollway not to execute contracts with the Vendor on those two projects. However, OIG found it notable that an experienced, certified vendor like this would have an adverse impression of Tollway procurement that could deter it from bidding on future Tollway work. Vendor's frustration with the Tollway's procurement process and their feeling that the Tollway did not understand the pressures on small businesses provides an opportunity for the Tollway to consider how project decisions can impact small vendors and identify ways to minimize those impacts to ensure small vendors continue to bid on Tollway projects.

OIG recommended that the Tollway take steps and consider potential improvements in communication to ensure that small vendors are not deterred from bidding on Tollway projects. OIG further recommended that the Diversity and Procurement departments consider collaborating to develop a Frequently Asked Questions (FAQ) for small businesses containing information regarding such things as Procurement Code requirements, especially ones that have caused problems for other vendors.

## Response

The response was expected on May 29, 2024, and received August 5, 2024.

The Tollway reiterated its strong commitment to provide small and diverse businesses with opportunities and support necessary to grow and succeed. In particular the Diversity and Procurement departments along with other stakeholders will continue to organize events to familiarize businesses with the procurement process and help them understand the expectations and requirements of doing business with the Tollway.

The Tollway said that it has initiated meetings with the State Procurement Office (CPO/SPO) to develop protocols for communication regarding active procurement matters that may affect the project status and impact vendors and bidders. In addition, the Tollway is developing a draft Frequently Asked Questions (FAQ) document, which will be sent for CPO/SPO review by the end of October, with an expected posting on the Tollway website in January 2025.

### **R-24-003**

OIG completed a review into the Tollway IT Department's conversion of Tollway employee web-based email accounts into network accounts. OIG received a complaint from an employee that their emails prior to November 2, 2023, were missing from their Tollway email account and that their email inbox and sent items had allegedly been "scrubbed." OIG's inquiry determined that IT created new Tollway email accounts for a number of field employees as part of a project to move them from web-based, email-only accounts to network accounts to allow them access an asset management software. The conversion process involved IT archiving each employee's original web-based account and creating a new network account with the same email address. OIG's review found that IT is able to retrieve the emails from those web-based accounts, so no employee's emails were "scrubbed."

OIG recommended that IT communicate with those impacted by the switch to inform them of the ability to obtain emails from their web-based accounts. OIG further recommended that IT coordinate with the appropriate user departments to inform affected employees of any changes/updates that could impact access or functionality of Tollway systems and, provide a point of contact and instructions on how to restore access to that data or information or address their concerns.

## Response

The response was expected on August 30, 2024 and received on August 30, 2024.

The Tollway confirmed that no email accounts were deleted and acknowledged that better communication with those employees would have addressed concerns sooner. The IT department said it was developing guidelines for how and when to inform potentially impacted staff about changes that affect access or functionality of Tollway IT systems.

## **MANAGEMENT REFERRALS**

### **RF-24-046**

OIG informed the Tollway that an Engineering employee had been indicted in state court on several counts related to a Paycheck Protection Program (PPP) loan they fraudulently sought and accepted totaling more than \$20,000. OIG provided documents supporting these charges and noted that the employee failed to report these indictments as required by Tollway policy. OIG recommended that the Tollway evaluate these matters as provided under Tollway Policy to determine if the underlying conduct supported disciplinary action.

The Tollway reported that, following the disciplinary process, it found sufficient grounds for termination and the employee was discharged. The criminal matter is ongoing.

### **RF-24-082**

OIG informed the Tollway that a Toll Operations employee had been indicted in state court on one count related to a Paycheck Protection Program (PPP) loan they fraudulently sought and accepted totaling more than \$20,000. OIG provided documents supporting the charges and noted that the employee failed to report the indictment as required by Tollway policy. OIG recommended that the Tollway evaluate these matters as provided under Tollway Policy to determine if the underlying conduct supported disciplinary action.

The Tollway reported that, following the disciplinary process, it found sufficient grounds for termination and the employee was discharged. The employee pled guilty to the charges.

### **RF-24-055**

OIG learned that an allegation of misconduct had been reported to several different departments before eventually being forwarded to the OIG. OIG referred the matter to the Tollway Executive Office and Ethics Office to review the incident reporting protocols and remind employees of the statutory duty to report misconduct to the OIG.

The Tollway reported that it would remind Tollway employees of the duty to report to the OIG, and, in June the monthly newsletter issued by the Ethics Officer reminded employees:

**If you have information about misconduct, fraud, waste, abuse, or mismanagement relating to Tollway officials, Tollway employees, or contractors and subcontractors providing goods or services to the Tollway, you should report it to the OIG.**

#### **RF-24-086**

OIG informed Tollway management of concerns that the current process of reviewing Relationship Disclosure & Conflict of Interest Certification forms used in the hiring process fails to adequately assess or document conflict of interest determinations. The OIG also identified concerns with the vague definition of the term “relative” in the Employment of Relatives section of the Tollway Policy and Procedure Manual.

First, the Tollway reported that during the hiring process the agency personnel officer must now consult with the Tollway Ethics Officer about any potential or actual conflicts of interest disclosed on the Relationship Disclosure & Conflict of Interest form. In addition, the Ethics Officer will provide an opinion on the conflict prior to the final determination.

Second, the Tollway said it would amend the definition of “relative” to specify the level of cousin that would constitute a reportable conflict of interest, and that future Ethics training and Ethics newsletters would reflect this change. In addition, the Policies & Procedures Manual will be amended to require that the Ethics Officer must be consulted in all work-related issues involving relatives.

#### **RF-24-087**

OIG informed management that employees who are listed as board members or managers on corporate filings may not be aware that they need to report those roles on the Outside Employment Disclosure form.

The Tollway reported that it was taking the following steps to improve guidance:

The annual Outside Employment form filed electronically in NeoGov will expressly ask the employee if they are owners of a business, or a board member/manager listed on corporate filings for a business such as an LLC.

In addition, future ethics newsletters and trainings will highlight this issue.

## SUMMARY OF OTHER ACTIVITY

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

- Hired an intern to develop and execute data analytics projects to assist OIG investigations and reviews.
- Participated in 11 on-boarding sessions for new employees to introduce and describe the OIG's role, and to emphasize Tollway's expectation of, and commitment to, integrity for all employees, officials, and vendors.
- One OIG staff member completed National Safety Council CPR-AED training offered by Tollway Safety and Security department.
- OIG management worked with IT and Procurement to finalize an Invitation for Bid (IFB) for a database and workflow system, which the Board approved last month.
- OIG staff completed all nine mandatory State and Tollway trainings prior to June 30 deadline.
- OIG investigative staff virtually attended the Annual Global Fraud Conference held by the Association of Certified Fraud Examiners to learn about current anti-fraud techniques and initiatives and earn professional education credits.
- Regular engagement with Tollway stakeholders, including the Board Chair, Ethics, Internal Audit, and Executive staff to promote integrity and ethics initiatives.