



OFFICE OF THE INSPECTOR GENERAL

ILLINOIS STATE TOLL HIGHWAY AUTHORITY
2700 OGDEN AVENUE, DOWNERS GROVE, IL, 60515

SUMMARY ACTIVITY REPORT FOR OCTOBER, 2011 – MARCH 31, 2012

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

From: James W. Wagner
Inspector General

Date: March 31, 2012

Re: Office of the Inspector General Summary Activity Report for the Period Ending March 31, 2012.

INTRODUCTION

On January 1, 2011, the Office of the Inspector General became effective at the Illinois State Toll Highway Authority. On July 28, 2010, Governor Pat Quinn signed the legislation (605 ILCS 10/8.5) passed by the General Assembly that created the office of the Inspector General for the Illinois State Toll Highway Authority. On October 18, 2010, Governor Quinn announced the appointment of James W. Wagner to the new position and on November 17, 2010 the Senate Executive Appointments Committee and the Illinois General Assembly approved the appointment, to run until June 30, 2015. The legislation, which became Section 8.5 of the Toll Highway Act, (605 ILCS 10/8.5) includes Subsection (m) of Section 8.5 which states:

(m) “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.”

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

MISSION/JURISDICTION

The statute (605 ILCS 10/8.5) further advised in section (d) that *“the Toll Highway Inspector General shall have jurisdiction over the Authority and all Board members, officers and employees of, and vendors, subcontractors, and others doing business with the Authority. The jurisdiction of the Toll Highway Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance”*.

The statute required in section (f) (3) that: *Final reports and recommendations shall be submitted to the Authority’s Executive Director and the Board of Directors for investigations not involving the Board”*.

INVESTIGATIONS

Previously the Tollway Board had implemented an investigative position entitled General Manager of Investigations and inquiries similar to those authorized in the referenced Act were underway at the time of implementation of the newly created office on January 1, 2011. Those inquiries were continued and some have been completed and some are still under investigation. The office previously operated with a Secretary and one Investigator under the General Manager. The Secretary has been promoted to Administrative Assistant and the Investigator was promoted to Senior Investigator. One additional Investigator/Auditor was hired effective February 1, 2011 and a Deputy Inspector General was added to the staff on April 18, 2011.

INVESTIGATIONS RESULTING IN DISCIPLINE:

The statute (605 ILCS 10/8.5) further required in Section (e) (3) *“Within 60 days after issuance of a final summary report that resulted in a suspension of at least 3 days or termination of employment, the Toll Highway Inspector General shall make the report available to the public by presenting the report to the Board of the Authority and by posting to the Authority’s public website”*. *“The Toll Highway Inspector General shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants”*.

Pursuant to this direction, this office is reporting the following investigations for the period of October – March 31, 2012:

IG-11-0019

The IG office received a complaint on June 21, 2011 that a Toll Collector had an unusually large amount of Emergency Vehicle (EV) transactions. On June 22, 2011 a request was submitted to conduct an electronic review of EV transactions. The results of that request were received and reviewed and revealed that the Toll Collector was collecting cash at the same time the transaction was classified as an EV. On August 10, 2011, the Toll Collector, a fifteen year

employee, was interviewed and admitted that the EV button was used incorrectly for non-emergency transactions to make up for errors on previous transactions and misclassifications of vehicles. The Toll Collector resigned and on September 16, 2011 repaid \$662.75 to the Tollway.

IG-11-0020

The IG office received a complaint on July 15, 2011 that a Toll Collector had an unusually large amount of Emergency Vehicle (EV) transactions. On July 18, 2011 a request was submitted to conduct an electronic review of EV transactions. The results of that request were received and reviewed and revealed that the Toll Collector was using the EV button to allow free passage and was therefore not collecting appropriate Tollway tolls. On September 1, 2011 the Toll Collector, a four year employee, was interviewed and resigned his employment and agreed to repay \$680.25 to the Tollway.

IG-11-0021

On June 21, 2011 the IG office received a complaint that a Toll Collector had an unusually large amount of Emergency Vehicle (EV) transactions. On August 29, 2011 a request was submitted to conduct an electronic review of EV transactions. The results of that request were received and reviewed and revealed that the Toll Collector was using the EV button to allow free passage and was also collecting cash for many EV transactions. On September 1, 2011, the Toll Collector, a thirty year employee, resigned his employment and agreed to repay \$650.15 to the Tollway. On February 01, 2012 the Toll Collector pled guilty in Lake County, IL to one count of misdemeanor theft.

IG-11-0024

The IG office received a complaint on July 15, 2011 that a Toll Collector had an unusually large amount of Emergency Vehicle (EV) transactions. A request was submitted to conduct an electronic review of EV transactions. The results of that request were received on September 15, 2011 and reviewed and revealed that the Toll Collector was using the EV button to allow free passage and was also collecting cash for many EV transactions. On September 15, 2011 the Toll Collector, a twenty-one year employee, was interviewed and resigned her employment and agreed to repay \$553.90 to the Tollway.

IG-11-0038

The IG office received a complaint on October 5, 2011 that a Summer Temporary Toll Collector had numerous cash variances on the Toll Collector Performance Report. A review of the report indicated the Toll Collector was turning in less cash than what was collected. On October 6, 2011 the Toll Collector was interviewed and admitted not following Tollway policies and procedures regarding cash collections and her Tollway employment was terminated by Tollway management.

IG-11-0017

The IG office received information on July 15, 2011 that a Toll Collector had an unusually large amount of Emergency Vehicle (EV) transactions. A request was submitted to conduct an electronic review of EV transactions. The results of that request were received and reviewed on September 2, 2011, and revealed that the Toll Collector was collecting cash at the same time the transaction was classified as an EV and was also using the EV transaction to allow free passage. On September 19, 2011, the Toll Collector, a fifteen year employee, was interviewed and admitted taking money when using the EV transaction button. The Toll Collector submitted a resignation from employment with the Tollway and agreed to reimburse the Tollway a total of \$874.25. The Toll Collector was subsequently charged by the DuPage County State's Attorney with Felony Theft and Felony Official Misconduct. The IG office was advised on March 19, 2012 that the Toll Collector had pled guilty to Felony Theft and was placed on Felony Probation.

IG-11-0002

The IG office was advised on December 22, 2010 that a Tollway employee had inappropriately used the Tollway supplied Non-Revenue Transponder. A review of the period April 1, 2009 to March 31, 2011 showed that there had been 1189 toll transactions which occurred on days the employee was not working or at times not consistent with the employees travel to and from work. Per the Tollway policy, the charge for the improper tolls is at the cash rate of \$1012.12 rather than the lower I-Pass rate. On December 1, 2011 the employee was placed on an unpaid thirty day suspension by Tollway management and agreed to pay restitution of \$1012.12 to the Tollway.

IG-11-0006

The IG office was advised on March 18, 2011 that a Tollway employee had inappropriately used the Tollway supplied Non-Revenue Transponder. A review of the period of January 1, 2009 to May 11, 2011 showed that there had been 783 toll transactions which occurred on days the employee was not working or at times not consistent with the employees travel to and from work. Per the Tollway policy, the charge for the improper tolls is at the cash rate of \$2362.53. On December 1, 2011 the IG office was advised that the employee had been placed on five days unpaid suspension by Tollway management and had agreed to repay the Tollway \$2362.53.

IG-11-0039

The IG office received notice on September 12, 2011 that a Toll patron had complained that a Toll Collector had overcharged for the toll. On October 5, 2011 the IG office received information that the same Toll Collector had attempted to sell jackets to fellow toll collectors at the Plaza. On October 17, 2011 the patron confirmed the event of overcharging and identified the Toll Collector. A review of the tolls collected by this employee determined that between January 8, 2010 and October 16, 2011 the employee conducted 1922 violation transactions where the

vehicle type is not classified. Each of those violation transactions indicated to the system that no money was collected. However, the employee was collecting cash during those transactions and therefore \$1832.55 should have been collected for the Tollway. The supervisor at the Plaza confirmed that the employee had tried to sell jackets and had also picked up the individual trays of money called “banks” of other the collectors to bring in to the supervisor, which is a violation of policy and procedure. The employee was interviewed on November 2, 2011 and admitted a previous arrest and conviction for felony possession of a controlled substance and delivery of cocaine and admitted being a drug dealer. He also advised of a current recent arrest in a “prostitution sting” that he had not advised his supervisors of. The employee could not explain the cash shortages for which he was responsible. On November 2, 2011 the employee was placed on unpaid suspension pending investigation and on December 29, 2011 his employment with the Tollway was terminated by Tollway management.

IG-11-0012

The IG office reported in the last summary report that the Toll Collector in this investigation had been dismissed from employment by Tollway management and that the information was provided to the Cook County State’s Attorney, who approved Felony Theft and Official Misconduct charges. The IG office was advised that on December 21, 2011 the Toll Collector pled guilty to one count of Theft and was placed on eighteen (18) months probation. On February 7, 2012 the Toll Collector paid restitution to the Tollway in the amount of \$811.25.

IG-12-0001

The IG office received information on November 17, 2011 that there was a Tollway employee working in the Illinois State Police (ISP) District 15 office who conducted inappropriate inquiries on the Law Enforcement Agencies Data System (LEADS) machine to check criminal background records. The ISP conducted an investigation and on January 24, 2012 information was received from the Dupage County State’s Attorney’s office regarding the misuse of the LEADS terminal by the Tollway employee. An OIG report of the incident was prepared and on February 2, 2012 the employee was arrested and charged with two counts of Felony Official Misconduct. On February 14, 2012 the employee resigned from employment at the Tollway. The criminal matter continues in DuPage County.

ADDITIONAL INVESTIGATIONS RESULTING IN RECOMMENDATIONS:

IA-028-2011

An investigative review dated December 16, 2011, was conducted to provide a description of Tollway procedures with regard to Tollway construction contracts to ensure that proper procedures and documentation is available to guarantee compliance with all appropriate policies and procedures. The information was developed from a review of prior investigations, including those previously conducted by the Internal Audit Control and Compliance Unit, as well as information provided by the Engineering Department. The review included issues including Bid Evaluations, Contracts and Board Resolutions, Engineering Department Documentation, Deviation from Procedures, and Consulting Contracts. Following this review and discussion, the following recommendations were made with the following responses:

- Due to the large volume of contracts to be reviewed for future projects, consideration could be given to engaging an independent source to conduct analytical reviews of bids to report unbalanced bids or other matters, such as collusion, that could cause concern prior to awarding contracts. *(Management Response: All departments are in agreement that independent reviews are a vital and necessary part of the process for an unbiased review. However, it is believed that the independent review is obtained through current practices and procedures and proposed procedures.....the Tollway should maintain current practices and procedures and continue with its intent to engage a consultant to perform forensic analysis as well as to perform vendor audits and cycle audits.)*
- For future contracts, consideration could be given to begin refusing to accept any bid with one-cent line items to limit future balancing change orders. *(Management response: The Internal Audit Department currently has planned an audit of bid and change orders for 2012. Based on that audit, the Internal Audit Department may provide recommendations as to improvements to existing controls and changes to policies, procedures and practices.)*
- Discussion regarding joint ventures should include the potential of having such companies treated as related parties for future bids while the joint venture is ongoing. *(Management Response: The Engineering Department has concerns that introducing restrictions beyond those already considered could have a negative impact to the Tollway. Contractors often enter into joint ventures to obtain the required pre-qualifications for the work performed.)*
- All Board resolutions creating specific directions should be strictly adhered to, including those rules created as a result of Board directions (i.e. Contract Cost Change Controls Committee (C5 Committee) regardless of any time deadline considerations. *(Management Response: All departments concur)*
- Paper processes and required forms should be routinely filed and then periodically reviewed by Internal Audit. *(Management Response: This recommendation may need clarification if it is in reference to paper processes and required forms other than in relation to the C5 process. Internal Audit currently attends many of the C5 committee meetings. In addition, Internal Audit currently reviews documentation as part of each specific audit...)*
- Consideration should be given to eliminating the Direct Labor Multiple (DLM) to determine the allowable amount of overhead and fixed fee (profit) to be reimbursed to engineering consultants. *(Management response: Engineering has indicated it will*

perform a cost-benefit analysis to determine whether or not the DLM should be eliminated.)

- Appropriate training in the procedures for construction contracts should be provided to any new or recent employees within the Engineering Department prior to initiation of the 2012 projects. (*Management response: All departments concur. Engineering employees will be trained regularly on ISO procedures.....*)

IG-11-0040

During the course of conducting another investigation, the Office of the Inspector General learned of a multimillion dollar transfer from the Toll Highway Authority Fund into the State's General Revenue Fund (GRF) for administrative charges for services the Tollway receives from other State Agencies. A report dated January 6, 2012 described the investigation into the nature of this administrative charge and to determine if the Tollway was still being charged for administrative services.

The investigation located transfers totaling \$55,332,400.00. One dated June 24, 2004 for two transfers for \$11,653,100; one for the State fiscal year commencing July 1, 2003 and the second for the State fiscal year commencing July 1, 2004 from the Tollway's 2004 Operating Expenses Budget to the GRF. One transfer was dated January 26, 2006 for \$11,046,900 for the State fiscal year commencing July 1, 2005 from the Tollway's 2005 Operating Expenses Budget. (This resolution was discovered after the issuance of the OIG's original report and was added in March 2012.) Another transfer was dated June 29, 2006 for \$10,389,400 for the State fiscal year commencing July 1, 2006 from the Tollway's 2006 Operating Expenses Budget to the GRF. The last transfer was dated June 28, 2007 for \$10,589,900 for the State fiscal year commencing July 1, 2007 from the Tollway's 2007 Operating Budget to the GRF.

The Finance Department provided information that when the Blagojevich administration took office they notified the Tollway through the Governor's Office of Management and Budget (GOMB) that the Tollway was to transfer \$19,039,920 to the State's GRF. The Office of the Illinois Attorney General intervened and stopped the direct transfer because the Toll Highway Authority is subject to a trust indenture to be used for the maintenance and operation of the Tollway. The GOMB then decided that the Tollway must pay an administrative fee to the GRF because the Tollway uses the services of other State agencies that are State funded, even though the Tollway receives no State GRF funding. Negotiations with the AG and Finance Department determined the amount to be paid to the GRF and then Board resolutions approved the transfers. It was determined that the June 28, 2007 transfer was approved by the Board but the funds were never transferred by the Illinois Treasurer and the funds remained with the Tollway. The legislative authority for the transfers expired and no additional transfers of funds from the Tollway were made and therefore the total transferred was \$44,742,500. However, fund transfers of this nature could raise concerns about whether the Tollway is fulfilling its fiduciary duty to its bond holders and customers.

Based upon the information gathered it was recommended that the Executive Staff and the Board of Directors should carefully review all options for preventing similar administrative charges and

might wish to consider supporting legislation ending the possible practice of administrative charges to the Tollway.

PI-11-0048

A report dated January 20, 2012 described an investigation initiated by the IG Office after receipt of information from the Illinois Department of Transportation's (IDOT) Office of Quality Compliance and Review that some temporary concrete barriers at its construction sites may not be secured properly, which could create a safety hazard. It was determined that concrete barriers are to be secured with anchoring pins that are drilled into the road surface to hold the barriers in place. IDOT had discovered instances where the pins were cut shorter than specifications required to make it appear that they had been properly anchored when in fact they were not inserted far enough into the ground. The barriers, if installed properly, are designed to give a bit to keep the vehicle skidding along the side of the barrier instead of being bounced back into traffic. If the barriers are not secured properly they could give more than the allowable distance and be pushed into traffic. The large part of the cost of the barriers is the labor involved in installation and if the contractors do not have to drill anchoring holes as deep they can save considerable money. IDOT also provided information regarding concerns about the REACT 350 crash cushions often used at the end of a temporary concrete wall and the fact that they were also not being properly anchored. Some of the bolts used to secure the bottom base of the structure into the pavement were too loose. That could cause the barrier to flip up on impact causing more damage and possibly injure passengers of vehicles. The contractors cited by IDOT were also contractors having worked on Tollway projects.

A review by the Engineering Department located only one improperly anchored concrete barrier on the Tollway and it was part of a contract with a local Village. Based upon this review the following recommendations were made:

- The Tollway should follow up and ensure that the concrete barriers are properly secured at the Village. *(This was completed)*
- The Tollway should issue a Construction Bulletin regarding the temporary concrete barriers...*(Construction Bulletin No. 12-01 was issued and was received at the OIG on 1/24/12 and is available on the Tollway web site under Doing Business – Construction-Engineering)*
- The Tollway may wish to consider other methods of anchoring concrete barriers for future construction projects.

GENERAL SUMMARY OF ACTIVITY:

During the period of October, 2011 through March, 2012 the Office of the Inspector General opened thirteen (13) Inspector General (IG) cases and closed twenty-nine (29) cases.

There were thirty-nine (39) Investigative Assistance (IA) cases opened and thirty-two (32) IA's closed. Of the IA cases opened, twenty (20) were responding to a subpoena requesting Tollway information.

The office opened twenty-one (21) Preliminary Investigations (PI), and nineteen (19) of the PI investigations were closed.

The IG office received twenty-five (25) complaints from citizens and nineteen (19) complaints were closed.

The above numbers represent a total number of ninety-eight (98) matters opened and a total number of ninety-nine (99) matters closed for a total of one hundred ninety-seven (197) matters handled during this time period.

There were twelve (12) redacted investigative reports posted on the Tollway website for public review during this six month period and additional ones will be posted each month.

The OIG has collected a total of \$5837.70 in restitution to the Tollway during the past six months.

ADDITIONAL REQUIREMENTS COMPLETED:

In addition to the rules for the minimum requirements for initiating, conducting and completing investigations that were established and published upon approval of the Joint Committee on Administrative Rules (JCAR), per letter dated September 19, 2011, the OIG has, during this six month period, also completed a formal review and revision of the office operation. This resulted in the formulation of the OIG Policies and Procedures and Operating Manual, along with Incident Reporting Procedures to provide guidance to all employees of the office.