



Illinois State Toll Highway Authority
Office of the Inspector General

SUMMARY ACTIVITY REPORT

For the period September 1, 2020 through February 28, 2021

Theodor J. Hengesbach
Inspector General

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OFFICE OF THE INSPECTOR GENERAL

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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 

Date: March 31, 2021

Re: Office of the Inspector General Summary Activity Report for the Period Spanning September 1, 2020 to February 28, 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

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, OIG strives to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement.

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

By statute, 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 OIG may also fall within the jurisdiction of other agencies (e.g., federal, state, or local law enforcement, other

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).

⁴ See 605 ILCS 10/8.5(d).

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.

OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. OIG also 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, an Investigator I, 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.

On April 1, 2021 the OIG will welcome a new Investigator II and an Investigator I who were selected following posting and interviews. There remains an open Deputy Inspector General position which we expect to be posted in the second quarter of 2021.

INTAKES

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 OIG can also refer matters, as appropriate, to Tollway management, law enforcement or another appropriate entity, or decline to open a case.

Factors that impact this decision include: the reliability and accuracy of information based on 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 as limited scope inquiries for 30-60 days to develop and evaluate available information to determine the most appropriate next action.

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 OIG may not be disclosed without consent of that individual or as otherwise

⁵ See 605 ILCS 10/8.5(f).

⁶ 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.

required by law. Furthermore, state and federal Whistleblower laws prohibit retaliation against individuals who provide information to or cooperate with an OIG investigation.

As noted in the prior Semi-Annual Report, reports to the OIG decreased in mid-2020 as the COVID-19 pandemic took full effect. This trend was beginning to change by the end of that reporting period, and we have seen nearly a complete return to pre-COVID numbers of reports to our office as Tollway stakeholders and the public have adjusted to new workplace realities.

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 43 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, OIG received 51 online submissions, four times more than the number received in the prior six months.

From September 1, 2020 through February 28, 2021, OIG took action in 114 matters:

Preliminary Investigations	10 opened 10 closed 7 converted (4 Investigations, 2 Referred, 1 Review)
Investigative Assistance ⁹	1 opened 1 closed
Investigations	7 opened 4 closed
Reviews	1 opened 3 closed 1 converted to Investigation
Referrals	92 matters referred 3 to Law Enforcement
Declined	3 matters

As of February 28, 2021, the following matters were pending¹⁰:

Preliminary Investigations	3
Investigative Assistance	0
Investigations	7
Reviews	5

⁹ On October 1, 2017, responsibility for responding to law enforcement subpoena requests for Tollway records transitioned from 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. OIG also issues Management Advisory Reports to the Board Chair, the Executive Director and appropriate management officials, which describe operational concerns observed by 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 September 1, 2020 and February 28, 2021.

OIG Investigations Resulting in Administrative Action

IG-18-001

The OIG issued a Summary Report of Investigation (SRI) following an investigation that established that a Tollway vendor submitted incomplete and or inaccurate financial statements and disclosures in responses to two RFPs seeking services to assist other businesses improve and become more adept at government contracting. In addition, after winning the contracts, the vendor failed to provide updated disclosures required of all Tollway vendors. Given that the vendor was contracted to provide guidance to vendors to help them become future Tollway vendors, it is even more important that it maintain and provide its own accurate financial statements and make appropriate disclosures. OIG recommended that the Tollway determine appropriate corrective action respecting the vendor's inaccurate and incomplete disclosures. OIG further recommended that the Tollway take steps to improve its review of financial statements and disclosures submitted by vendors and prospective vendors.

OIG also investigated a complaint that one of the vendor's subcontractors fraudulently overbilled for services it provided on the Tollway contract. This investigation established that the subcontractor had improperly billed and received payment for time that it did not pay its employees, and that the vendor submitted the subcontractor's invoices to the Tollway without conducting meaningful review despite invoicing the Tollway for preparing its invoice packages. Based on these findings, OIG recommended that the Tollway require the vendor to review the subcontractor's invoices, identify the extent of overbilling, and obtain reimbursement for the Tollway of any amounts improperly paid to the subcontractor or, in the alternative, return all amounts it billed the Tollway to review the subcontractor's invoice packages. OIG further recommended that the Tollway consider appropriate remedial action against the subcontractor.

RESPONSE

In its responses, the Tollway agreed with the findings and indicated that it had taken steps to address the deficiencies identified, including the termination of the vendor's contract. The Tollway highlighted that the new RFP for the Technical Assistance program includes corrective contract provisions respecting accountability and performance to address these findings. Further, the Diversity Department said that it was developing an automated tracking program that works along with Tollway Compliance Department's monitoring efforts.

Finally, the Tollway reported that it is reviewing documentation provided by the subcontractor and the vendor to determine the extent of the overbilling incurred by the Tollway, and the most appropriate remedial actions available.

IG-20-002

The OIG issued an SRI following an investigation into an allegation of possible fraud by a vendor who had been awarded a contract to provide a concrete pad and assemble a kennel for a District 15 Illinois State Police K9 Officer.

Our investigation identified multiple concerns related to this incident. First, the facts established reasonable cause to find that the Buyer assigned to this procurement failed to follow proper procedures by: a) not ensuring that the contract had the necessary Tollway signatures; b) authorizing the vendor to begin work without a signed contract; and, c) forwarding the initial invoice for approval without recognizing the additional extra-contractual charge. Based on the findings, the OIG recommended that the Tollway take corrective action including disciplinary action and additional training.

Second, the vendor failed to satisfy the terms of the contract and/or Purchase Order (PO) in several respects: a) by using a subcontractor to perform all of the work without providing their identity to the Tollway; b) by seeking extra payment of \$1100 for work performed outside the scope of the contract (which was only removed after the charge was challenged); and, c) by knowingly seeking full payment for work when the kennel had not been installed.

Based on the findings, the OIG recommended that the Tollway take corrective action against the Buyer and the vendor

This investigation also identified areas for further attention and the OIG recommended that the Tollway provide more oversight during the procurement process to ensure better management of small construction projects like this to ensure that the Tollway receives the benefit of the services sought.

RESPONSE

The Tollway indicated that as part of an unrelated personnel action, the Buyer's position had been eliminated as of January 15, 2021. Tollway records reflect the Buyer's status as Absent with Leave until February 15, 2021.

The Tollway indicated that it intends to take appropriate corrective action against the vendor, and has sought additional information from the OIG.

The Tollway agreed with the recommendation to provide more oversight on these types of contracts. Procurement reported that it will increase its oversight during the processing of small procurements and ensure that contracts are fully executed prior to staff issuing approved POs to vendors. In addition, Procurement said that it will implement a new procedure whereby management will hold the approval of the PO in both the SAP system and BidBuy system until the corresponding contract is fully executed.

IG-20-003

The OIG issued an SRI following an investigation that established reasonable cause to find that an Equipment Operator Laborer (EOL) violated Tollway outside employment and leave policies by submitting a false outside employment disclosure and by taking Family Medical Leave Act (FMLA) leave to call off from Tollway shifts and then work at a hospital on several days. The OIG recommended that the Tollway impose discipline as appropriate under the circumstances

Furthermore, this investigation identified areas for further attention by the Tollway and OIG recommended: Enhancing the outside employment disclosure process; Increasing collaboration among Tollway stakeholders regarding FMLA leave requests and use; and, Providing additional training for staff, especially frontline supervisors.

RESPONSE

The Tollway agreed with the OIG findings and initiated the termination process. OIG received notification that the EOL's employment had been terminated on February 17, 2021, and that the Union had filed a grievance. On March 2, 2021, OIG learned that the Union had withdrawn its grievance.

The Tollway reported that it will enhance its existing outside employment disclosure process to require employees to discuss their outside employment with their direct supervisor before signing the form. The affirmation paragraph will indicate that the employee has disclosed and discussed their outside employment with their direct supervisor before signing.

The Tollway committed to provide continued periodic mandatory FMLA training to frontline staff. The next training is scheduled to take place during the second quarter of 2021, and will cover updates on FMLA laws and best practices.

Finally, the Tollway reported that it will implement the third-party administrator, FMLA Source's One Call Absence Reporting System during the third quarter of 2021. This new system is designed to standardize reporting documentation and enable management to run reports in order to track/monitor FMLA use. Training on this new system will be included in the above-referenced FMLA training.

REFERRALS

OIG refers matters that are either not within its jurisdiction, or which appear suited for Tollway management's review and action. Responses to several notable referrals are summarized below.

RF-20-74 COVID-19 Testing

OIG received an anonymous report that the Tollway was preventing employees at an M site from getting tested after one of the employees received a positive diagnosis for COVID. OIG referred the matter to Engineering. Management responded that, in addition to having the site deep cleaned by Tollway custodial staff the day after the reported incident, it conducted contact tracing to determine if any employees were in close contact with the diagnosed employee. Per the Centers for Disease Control and Prevention (CDC), close contact is defined as a person having greater than 15 minutes of exposure over a 24-hour period. Management followed this guidance and determined that no employee had had close contact and that the employees had exercised appropriate social distancing and use of PPE. The manager advised staff that if any had concerns, they should go for testing, and did not threaten discipline for getting tested. Several employees went for testing and all were negative.

RF-20-095 Email Phishing

OIG received a report from a Tollway Senior Manager about an email phishing attempt that unsuccessfully sought to impact a Tollway transaction with another local governmental entity. Under the scheme, the local government received an email purportedly from the Tollway providing instructions that differed from previous instructions. Because these instructions were different, the entity contacted the Tollway official who confirmed that the email was not authentic. OIG learned that the email had not been sent from a Tollway account and consulted with Tollway IT Security, which reviewed the circumstances and determined that this phishing attempt likely arose from outside of the Tollway. OIG referred the allegation to ISP for criminal investigation. OIG also worked with Tollway management in IT, Finance, and Engineering to ensure communication with Tollway stakeholders advising of the need for vigilance against these types of phishing attempts and re-iterating proper Tollway protocols.

GENERAL SUMMARY OF OTHER ACTIVITY

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

- Providing content for Tollway New Employee Orientation video.
- Providing overview orientation for new Director Jacqueline Gomez.
- Continuing to collaborate with IT and Procurement to finalize an RFP for database and work flow system, which we expect will be posted shortly.
- Regularly engaging with Tollway stakeholders, including Internal Audit, ISP, EEO/ADA, the Board Chair, and Executive staff about common issues and ways to improve.
- Providing input to the Chairman, Administration, Legal, and Executive on proposed Tollway policy and procedure revisions.
- Working with Ethics, Internal Audit, and Legal on the Conflict Review Committee.