



Illinois Tollway Operations Review Report

Draft Published: November 2018

Introduction

The Illinois State Toll Highway Authority stands tall as a vital component of the state's infrastructure. The 294-mile system provides a world-class transportation network that connects federal, state, local and public transportation networks providing a backbone for the region's economy.

With an annual operations, construction and debt services budget of \$1.4 billion, the Illinois Tollway is currently at the center of the nation's largest toll highway capital program, entirely funded by the system's users. Those revenues support the agency's 1,400 plus employees responsible for the ongoing planning, engineering, construction, procurement, technology, maintenance, fleet, service vehicles, day-to-day tolling operations and the Illinois State Police District 15, which is responsible for patrolling the system.

The projects in the capital program are being delivered on time and within budget. They are also funded without a passenger vehicle toll increase in the last six years.

In recent months, however, the Illinois Tollway has been criticized for a number of decisions related to hiring procedures, conflicts of interest and procurement policies. On July 24, 2018, the Illinois State Senate's Transportation Committee requested a special hearing in Chicago with the Illinois Tollway's Executive Director and Chief of Procurement along with the state's Chief Procurement Officer (CPO) for General Services and the Executive Director of the American Council of Engineering Companies (ACEC) in Illinois to discuss general Tollway procurement policies.

This hearing allowed the Tollway to demonstrate not only its procurement process and procedure, but also the safeguards and mechanisms enacted to

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ensure transparency and integrity, and the Chief Procurement Office independently testified that the decisions the Tollway is making adheres to all procedures, policies and law.

However, the subject matter of the hearing was brief and narrowly focused on procurement issues. The hearing did not afford the opportunity for the Tollway to deeply explore a full range of issues.

With a strong desire to explore these issues in a meaningful way and a belief that improvement should always be sought, Illinois Tollway Chairman Bob Schillerstrom moved to establish an Ad Hoc Operations Review Committee tasked with a thorough review of the Tollway's procurement, hiring and conflict of interest policies. The committee's stated goal was to educate stakeholders on the complex laws and processes that govern the ethical, legal and procedural parameters that govern the Tollway and to develop recommendations in both policy and state law aimed at increasing the Tollway's existing levels of transparency and accountability.

On August 15, 2018, the Board appointed Directors James Banks, Corey Brooks, Craig Johnson and Bradley Stephens to serve as official members with the committee chaired by Chairman Schillerstrom himself. An aggressive timeline was set for the meeting of the committee with the expectation of a report issued in 2018.

The following report is a culmination of the information provided at these Ad Hoc Committee meetings as well as a series of recommendations for improvement of Tollway operations. The report is designed to provide an overview of Tollway operations with an explanation of the current state of procurement, hiring and conflicts of interest procedures.

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Ad Hoc Operations Review Committee Meetings Overview

Established as an Ad Hoc Committee of the Illinois Tollway's Board of Directors, the following outlines meeting agendas and discussions:

August 15, 2018 – Procurement Policies and Qualifications-Based Selection

This initial meeting delved into Tollway operations and helped provide a situational awareness on how and why certain processes are in place [see appendix p. 63].

Tollway's Chief Engineering Officer, **Paul Kovacs**, and Chief of Procurement, **John Donato**, jointly provided a two-hour, in-depth overview of the Tollway's procurement process and explained the difference between Qualifications-Based Selections (QBS) for engineering contracts and low-bid construction contracts.

Ed Gower, former Chief Counsel for Illinois Department of Transportation (IDOT), validated the Tollway's compliance with all state laws and supplied options for the Tollway to consider for improving the procurement process. Mr. Gower worked at IDOT for more than a decade and stressed the critical importance of ensuring high-quality, professional engineering services were being used since the roadways impact the lives of millions of travelers throughout the system. He reflected on IDOT's selection committee and their process and highlighted the fact that IDOT has never held a public hearing when selecting QBS firms, which is consistent with standard national practice.

Fred Coleman, an active member of the Tollway's QBS selection committees provided perspective from an evaluator's point of view. Mr. Coleman, a professional engineering consultant and a professor in the College of Engineering at the University of Illinois Urbana – Champaign, has served as the public member of selection committees for both IDOT and the Illinois Tollway. Mr. Coleman spoke to the value and importance of reviewing QBS firms in private to ensure candid and honest discussions amongst committee members. In addition, he noted the importance of evaluating the most critical factors first including scope, budget and timeline.

August 23, 2018 – Conflict of Interest Policies and Diversity

The second meeting examined the impacts of the procurement process on helping to attract and provide opportunity for diverse and small businesses at the Tollway [see appendix p. 117].

Eileen Chin, president of RM Chin & Associates, and **Luis Montgomery**, president of 2iM Group, spoke as disadvantage business enterprises who have worked for the Tollway and submitted statements of interest (SOIs) for work on various professional engineering bulletins.

In addition, the committee reviewed the Tollway's conflict of interest policies with **Mr. Gower**.

Dave Bender, President of the American Council of Engineering Companies (ACEC) – Illinois, shared the association's perspective on the QBS process at the Illinois Tollway and offered, "the Tollway without a doubt almost over-communicates with engineering firms and people that do business, as compared to other clients that we have." He added, "Compared to the others there's no second place."

ACEC represents more than 600,000 engineers, architects, land surveyors and other specialists nationwide. Among key issues across its federation of 52 state and regional councils, ACEC serves as a critical resource in helping to educate, advocate, protect and promote the use of QBS.

In Illinois, ACEC is frequently called upon to provide testimony, expertise and represent the industry at various forums and official hearings.

August 29, 2018 – Procurement Improvement and Hiring Practices

The third meeting of the Ad Hoc Committee [see appendix p. 155] brought in a retired Executive Director of the Utah Department of Transportation, **John Njord**, to discuss Utah's procurement policies, examine and provide feedback on the Tollway's policies and highlight potential opportunities to improve. Mr. Njord commended the Tollway for the work it has done to improve and review its processes and noted while some processes are different from what's done in other parts of the country, many places could learn from what the Tollway has implemented in its QBS process. Mr. Njord also submitted written comments affirming the Tollway's proper use of QBS procedures and the consistency with industry standards.

The Committee heard from **Kent James** from Illuminative Strategies on the extensive improvements the Tollway has undertaken to reduce the steps in the hiring process at the Tollway. Mr. James described the types of best practices that have been adopted and continue to be implemented throughout the Tollway's hiring processes and procedures.

Cassandra Rouse, the Tollway's Chief of Internal Audit, also provided an overview of the current state of the Tollway's recruitment and hiring processes for both Rutan and exempt employees, with recommendations to bolster transparency.

State of the Tollway

The Illinois State Toll Highway Authority is committed to serve the transportation needs of Northern Illinois and provide safe and convenient travel for its 1.6 million daily drivers across the 294-mile Tollway system. It delivers the region's diverse transportation needs generating more than \$1.45 billion in revenue each year, providing strategic investments in the region's infrastructure while helping to sustain the economy of the communities throughout the system.

The Tollway's success is driven by its relentless commitment to efficiency, innovation and collaboration. Tollway staff has developed a flexible model with agility that has enabled it to deliver world-class roadways consistently on time and within budget. As a user-based system that receives no funding from federal or state governments, the Illinois Tollway is considered a national leader throughout the industry for its operational efficiency and commitment to regional partnerships and economic development.

The following section outlines the state and performance of the Illinois Tollway.

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Finances

The Illinois Tollway carries an outstanding reputation for strong fiscal management and has been continuously recognized by Moody's Investors Service ratings for "maintenance of strong liquidity levels and slightly better than forecasted financial results over the last two years."¹ This credit strength stands a full seven levels above that of the State of Illinois [see appendix p. 191].

Revenues of the system support the Tollway. The Tollway does not receive state or federal funding. More than 75 percent of Tollway revenues are used to support or improve Tollway infrastructure, while less than 25 percent are used for roadway operations, toll collection and administration.

Credit rating agencies have cited the following in the Tollway's credit review:

Illinois Tollway Credit Ratings:

- » *Moody's November 2017 Aa3*
- » *Fitch August 2018 AA-*
- » *S&P Global November 2017 AA-*

Exceptional Capital Improvement Program Management

- » Strong record of delivering capital programs on time and within budget, including successful completion of the \$6 billion Congestion-Relief Program
- » \$14.3 billion *Move Illinois* Program addresses system needs through 2026 and provides funding for key expansion of the system
- » Multiple projects and 15-year time frame of *Move Illinois* allows for important flexibility with respect to scheduling and management

“The rating further reflects ISTHA's prudent debt management with strong historical and projected debt service coverage ratios (DSCR) with a major capital program underway.”

Fitch, 2018¹

Strong Market Position and Senior Management

- » Essential road system with a strong economic and financial history serving metropolitan Chicago and northern Illinois
- » Experienced and proactive Board and management team, providing strong governance and oversight

¹ Fitch Affirms Illinois State Toll Highway Authority's Revs at 'AA-'; Outlook Stable. <https://www.businesswire.com/news/home/20151204005501/en/Fitch-Rates-Illinois-Tollways-Toll-Highway-Revs>

Solid Financial and Debt Service Coverage

- » Increasing but conservative debt profile with relatively level debt service and maturities limited to 25 years
- » Debt guidelines targeting annual debt service coverage of net revenues equaling or exceeding 2x maximum annual debt service
- » Strong legal covenants that limit the use of Tollway revenues for use on the Tollway system and provides important protections for bondholders

Robust Traffic Performance

- » Mature, growing traffic base
- » Strong revenue growth and stable toll transactions, even with construction impacts
- » Affordable toll rates, favorably comparable with peers
- » Commercial vehicle toll rates, which represent approximately 40 percent of its annual revenue are tied to the consumer price index (CPI)

The Illinois Tollway maintains these impeccable credit ratings through a history of sound capital planning and maintenance policies.

“The Aa3 and stable outlook reflect ... a demonstrated recent track record of delivering large, complex capital programs within budget.”

Moody's 2017A Bond Issuance ²
[see appendix p. 196]

More than 75% of Tollway revenues are used to support or improve Tollway infrastructure, while less than 25% are used for roadway operations, toll collection, administration and state police.

² Moody's assigns Aa3 to ISTHA's (IL) 2017 Series A senior revenue bonds; Outlook stable. https://www.moody's.com/research/Moodys-assigns-Aa3-to-ISTHAs-IL-2017-Series-A-senior--PR_904280153



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World-Class System

Roads

As of 2017, more than 75 percent of the Tollway's pavement was rated at excellent to good condition by the Tollway's legally required General Engineering Consultant (GEC). The Tollway has invested revenues from its user-based system to proactively address and improve the system to create a world-class network.

Bridges and Structural Components

The structural elements of the Tollway's system including bridges, large culverts, retaining walls, noise abatement walls, sight screen walls and overhead sign structures are regularly monitored and assessed for structural health. In the past two years, 95.8 percent of the Tollway's 681 systemwide bridge structures were assessed and resulted in a health index of 80 or higher.

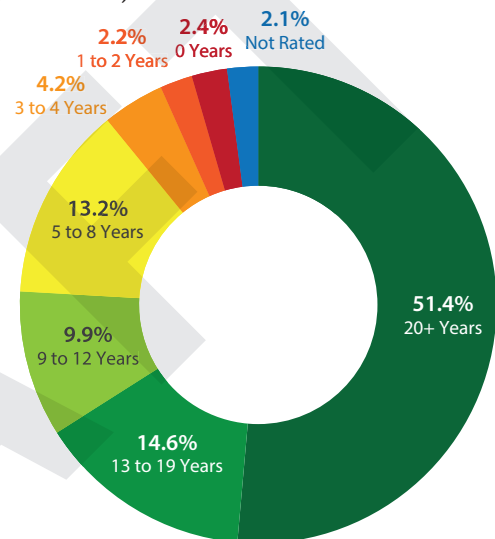
Any structure receiving a lower rating is either targeted for reconstruction as part of an upcoming corridor improvement or scheduled for rehabilitation as part of the annual systemwide structure repair program.

This type of rating is a result of the Tollway's continuous investment in its system and ability to rapidly detect and proactively address infrastructure issues across the system.

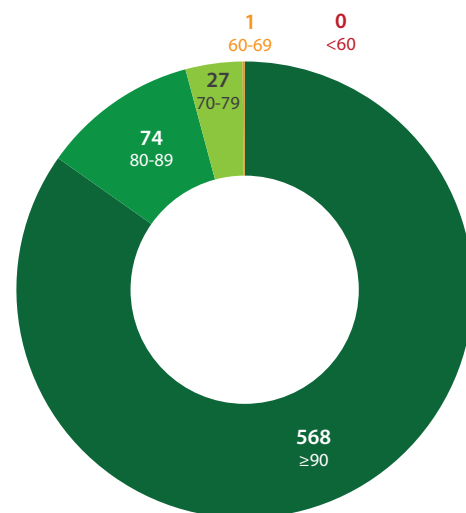
“The Tollway system has the best roads in Illinois ... you can't reasonably argue that a drive on a toll road isn't a lot better than a drive on a state road.”

Rockford Register Star, June 2018

Mainline Remaining Service Life Ratings (Systemwide)



Bridge Inspection Health Index

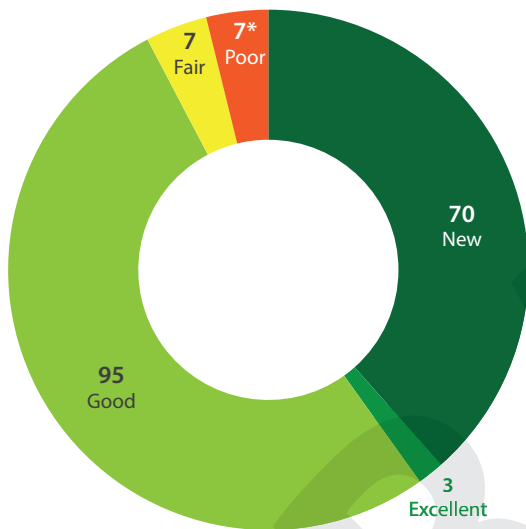


More than 95% of Tollway's bridge structures in excellent condition

Facilities

With deferred maintenance issues plaguing government facilities across the state and the nation, the Illinois Tollway ensures facility construction, planning and maintenance are incorporated into every phase of a project; and the results show. Through the Tollway's 15-year capital construction program, *Move Illinois*, there have been 70 newly constructed or reconstructed facilities systemwide.

As of 2017, 92.3 percent of facilities throughout the system maintained an excellent (new) to good condition rating in the past inspection cycle. Ongoing inspections are a key component of the Tollway's operations and include maintenance facilities, toll plazas, telecommunications buildings, oases, headquarters and other facilities.

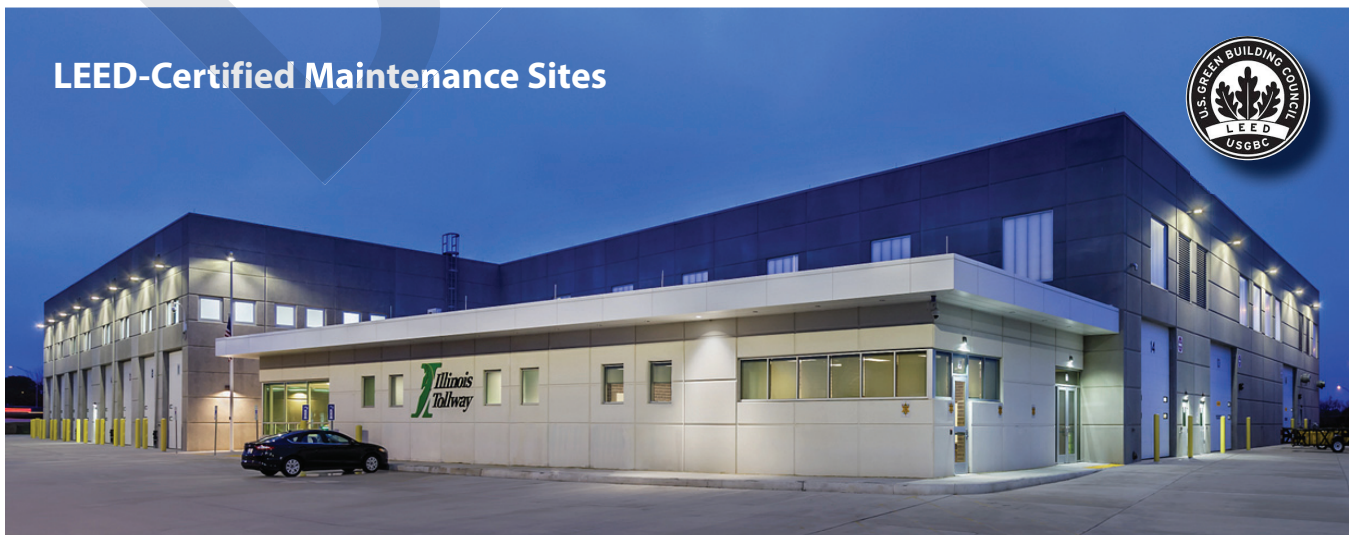


In 2016, the Illinois Tollway maintained the following facilities systemwide:

Facility Type	Quantity
Operations	4
Maintenance	15
Toll Plaza	87
Communications	9
Intermediate Power Distribution and Communication	57
Oasis	7
Pump Station	3
Total Facilities	182

**A combination of maintenance sites and toll plazas make up the poor-rated facilities. Through the Tollway's Job Order Contracting (JOC) program, smaller repair and rehabilitation work is being completed to address the condition of these identified facilities. In many of these cases, the facilities are nearing the end of their service life, though many will be reconstructed or relocated by the end of the Move Illinois Program.*

LEED-Certified Maintenance Sites



Diversity

The Illinois Tollway also has an unrivaled commitment to diversity and inclusion for disadvantaged, minority- and women-owned business enterprises (D/M/WBE) and veteran-owned businesses in construction and professional services contracts. These efforts support the Tollway's longstanding commitment to diversity into the procurement process itself. Through these efforts, hundreds of diverse individuals and companies have been involved with and benefited from the Illinois Tollway's capital programs.

The Tollway has always looked to expand opportunities for diverse stakeholders – from the Partnership for Growth (P4G) Program; which provides meaningful instruction, technical assistance and beneficial resources to protégé engineering companies; to the Earned Credit Program; which allows contractors and subcontractors to benefit from hiring historically underrepresented individuals.

This only increased under *Move Illinois*. Knowing that additional capital spending could translate to expanded opportunities for diverse individuals and businesses, the Tollway created the Department of Diversity and Strategic Development to focus exclusively on diversity. This department also lead the Diversity Advisory Council (DAC), comprised of more than 20 advocacy agencies with long histories of assisting D/M/WBE and veteran-owned businesses in Illinois. The DAC gives the Tollway an outside perspective on how to refine its diversity programs.

Thanks to the Tollway's collective efforts, more diverse and veteran-owned firms, as well as historically underrepresented individuals, are benefiting from contracting and employment opportunities more than ever before.

Key Diversity Programs and Initiatives

Partnering for Growth (P4G) Program

- » Provides small and diverse firms with meaningful instruction, technical assistance and beneficial resources to improve business practices
- » Program expanded to include agreements between construction firms in 2017 – previously it only included professional services
- » More than 140 agreements executed since 2005 between more than 80 unique protégés and more than 80 mentors

The Illinois Tollway Department of Diversity and Strategic Development is a driving force for increasing economic opportunities in the diverse communities we serve.



Earned Credit Program

- » Allows contractors and subcontractors to earn bid credits toward future Tollway construction bids when they hire low-income eligible candidates
- » More than 350 workers hired since inception, earning more than \$17 million in wages

Small Business Initiative

- » Sets aside construction contracts (generally with values around \$1 million) to be awarded only to registered small businesses
- » Since 2012, the Tollway has awarded nearly 80 set-aside contacts worth nearly \$85 million

Technical Assistance

- » Provides customized technical assistance to new and smaller firms, including D/M/WBE firms of varying skill levels, looking to improve their business capabilities and become effective heavy highway construction contractors
- » Program has expanded from two providers in Chicago area to seven providers across entire Tollway service area
- » More than 430 unique clients served since 2013

Veterans Program

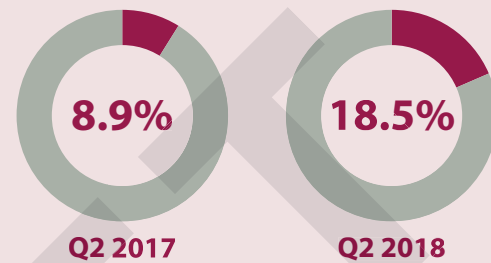
- » The Tollway evaluates all solicitations for inclusion of veteran-owned small business (VOSB) or service-disabled, veteran-owned small business (SDVOSB) goals
- » Since the program began in 2015, the Tollway has paid more than \$78 million to veteran-owned businesses

ConstructionWorks Program

- » Beginning this year, the Tollway will provide pre-apprenticeship training and support services to prepare historically underrepresented individuals for heavy highway construction-related entry level career and job opportunities
- » The Tollway has selected the Chicago Cook Workforce Partnership (CCWP) to administer the program in nearly 20 locations across the entire Tollway service area

Diversity by the Numbers

Percentage of D/M/WBE payments to African American-owned construction firms
more than doubled



More than **350 workers hired** since inception of the Earned Credit Program, earning more than **\$17 million in wages**



More than **140 Mentor/Protégé agreements executed** since 2005 between more than **80 unique protégés** and more than **80 mentors**



Since the program began in 2015, the Tollway has paid more than **\$78 million to veteran-owned businesses**

Diversity in Tollway Contracting

The Tollway benefits from having a deep pool of diverse consultants, including African Americans, Hispanics, Asians, Native Americans, Women, Veterans and certified disadvantaged, minority- and women-owned enterprises (D/M/WBE). To that end, the Tollway has developed and improved a number of programs that increase access to opportunities for emerging firms by allowing them to gain valuable work experience and become familiar with Tollway policies, procedures and staff. Programs include:

- » Mentoring – Illinois Tollway Partnering for Growth (P4G) Program
- » Business coaching and development – Illinois Tollway Technical Assistance Program
- » Referrals to outside resources for goods and services vendors – Procurement Technical Assistance Centers (PTACs)

As firms hone their business practices and establish a track record of success on Tollway and other regional projects, they become better positioned to pursue – and win – Tollway prime opportunities.

Diversity and Goods and Services Solicitations

The Tollway is currently in the process of implementing a new cloud-based diversity management software solution to improve its ability to collect and analyze payment data, thus fulfilling a key recommendation from the Tollway's 2015 Disparity Study.

Known as B2GNow, the software is considered the nation's most comprehensive diversity management tool for functionality. Benefits include:

- » Enhanced tool for conducting diversity outreach and tracking contractor payments
- » Track consultant progress toward meeting D/M/WBE commitment goals and compliance
- » Construction and professional services contractors and consultants required to utilize the system



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Move Illinois Capital Program

In 2012, the Illinois Tollway launched its 15-year, \$12 billion capital program, *Move Illinois: The Illinois Tollway Driving the Future*. In 2017, the Board of Directors increased the program to \$14 billion to expand its planned reconstruction of the 22-mile Central Tri-State Tollway (I-294) to include widening. The *Move Illinois* Program will improve mobility, relieve congestion, reduce pollution, create as many as 120,000 jobs and link economies throughout Northern Illinois.

The *Move Illinois* Program is funded by bonds and toll revenue generated through a toll rate increase for passenger vehicles in 2012 and a previously approved increase for commercial vehicles beginning in 2015.

Overview of Projects

The first seven years of *Move Illinois* are on schedule and within budget, delivering the new Illinois Route 390 Tollway and a rebuilt and widened 62-mile section of the Jane Addams Memorial Tollway (I-90) with its new SmartRoad corridor, as well as opening a new interchange connecting the Tri-State Tollway (I-294) to I-57.

Progress continues on projects addressing the remaining needs of the existing Tollway system, delivering the new I-490 Tollway Project and reconstructing of the Central Tri-State Tollway (I-294) and planning for emerging projects. There are many measures of success in a large capital program, but delivery on time and within budget is the primary measure.

The Tollway works efficiently and effectively to provide a successful delivery of the *Move Illinois* Program.

A Unique Perspective

A capital program of this magnitude and complexity faces many challenges, but the Tollway's commitment to success is unwavering. Unique to the Tollway is its commitment to customer service, focused on maintaining a convenient, safe and efficient mode of travel for Tollway customers with the least amount of impacts. This requires a massive coordination

The Move Illinois Program is on time and within budget. It is creating as many as 120,000 jobs.



Acceleration

The Tollway is making smart decisions today that will have a positive impact on the future. The Authority is taking full advantage of the current competitive construction bidding environment by picking up the pace in 2018 to advance work scheduled in the *Move Illinois* Program.

With more than \$588 million advertised for 2018 construction mid-year, the Tollway has already begun to realize major economic benefits and cost savings. This market-driven decision to accelerate projects has resulted in nearly \$26 million in bid savings so far while also creating and sustaining thousands of jobs.

This decision to advance work will deliver benefits sooner. Projects like the Edens Spur (I-94) Improvement Project and work along the Veterans Memorial Tollway (I-355) are just a few examples.

effort, as the Tollway is working with hundreds of firms, communities and organizations throughout Northern Illinois.

An Investment in Illinois

The *Move Illinois* capital program is a critical investment, not only in Illinois' transportation network, but the state's economy. This effort is driving new opportunities for businesses to grow and flourish. It is giving local communities the ability to recruit, retain and attract companies to the area, hire local talent and provide new revenues throughout the region.

As an example, the completed Jane Addams Memorial Tollway (I-90) Rebuilding and Widening Project not only improves travel for the nearly 1 million customers who travel the corridor every day, but is expected to create or sustain as many as 11,500 additional permanent non-construction jobs in the Chicago region.

Move Illinois is putting people to work. There are more than 1,230 firms working on the capital program and helping the Tollway deliver the program. In addition, the Tollway has approximately 400 construction and professional services contracts active at any given time. These contracts are made up of primes and multiple subconsultant and subcontractor firms, resulting in thousands of individuals working on the capital program every day. Efficient and effective work on this scale is the number one challenge to delivering a program on time and within budget.

Sustainability

The Illinois Tollway is committed to fostering environmental responsibility and sustainability throughout the organization. The Tollway strives to plan, design and construct roadway projects in accordance with state and federal regulations while using best practices to protect and enhance the natural and physical environment. In addition, environmental sustainability is one of the driving goals for the Tollway's *Move Illinois* Program.

The Illinois Tollway seeks to minimize the environmental impact of roadway construction by reducing, recycling and reusing materials. It is committed to using renewable energy and green technology, as well as adopting research initiatives and best practices to reduce energy use and costs. The Tollway has a dedicated environmental team, responsible for coordination, communication and implementation of its sustainability programs. While not required, the Tollway works in accordance with the National Environmental Policy Act to ensure sustainability is at the forefront.

The Tollway also recognizes the benefits of developing partnerships with environmental organizations. Together with the Morton Arboretum, the Tollway is working to establish and maintain healthy tree communities throughout the Tollway's 294-miles, five roadways and 12 counties. This partnership is exploring the health and vitality of trees along highway conditions and will help inform the future tree canopy across the system.

Procurement

Across 294-miles of roadway along five tollways, the Illinois Tollway is responsible for providing services to nearly 1.6 million daily drivers in northern Illinois. Since the inception of the 15-year, \$14 billion capital program, *Move Illinois*, the Tollway has invested billions of dollars into the system and engaged hundreds of construction and professional service firms to complete this work. As a result, customers and communities are realizing the benefits of these investments that are helping to grow and expand the state's economy.

The Illinois Tollway has established a fair and open process to acquire high-quality engineering services.

The Tollway engages in a comprehensive process to perform Qualifications-Based Selections (QBS). This process varies based on the type of services the Tollway is seeking. One process outlines the steps for selecting engineering professional services while a similar, yet enhanced process, is used to hire what are known as foundational consultants. Both are focused on meeting the Tollway's mission in a transparent manner that ensures quality services and products while protecting its bond holders and customers. Each process is documented and explained in the Tollway's International Standards Organization (ISO) Procedures: 3100 and 3100B.

The most important factor is that the selection of professional engineering services is based on qualifications and not price, which is in accordance with federal and state law.

Guided by International Standards Organization (ISO) Procedures

Engineering Professional Services

ISO Procedure 3100

Foundational Consultants

ISO Procedure 3100B

Major components of both processes include:

- | | |
|--------------------------------|------------------------------------|
| » Identify the need | » Selection committee participants |
| » Issue solicitation | » Firm selection |
| » Collect and review responses | » Negotiations |

Notice and Selection of Professional Services Procedure (3100)

Identify the Need

Development of the Professional Services Bulletin (PSB)

The need for a project is based upon the capital program scope and schedule, and inspection, repair and maintenance cycles or as determined by the trust indenture [see appendix p. 198]. The Tollway reviews the program schedule to determine when a project must be started. The project timeline ensures there is enough time to develop a master plan and design documents, and that there is enough construction time to meet the scheduled completion date. Once the project and timing are determined, a description is developed for each project solicited. This description includes:

- » Location of work area
- » Description of services required
- » Qualifications required of the consultant
- » Key personnel qualifications required to complete the work
- » Identification of required information to submit

Once an item is prepared, the Department of Diversity and Strategic Development (Diversity) reviews each item to set individual project disadvantaged, minority- and women-owned business enterprise (D/M/WBE) goals. All of this information is collated into a Professional Services Bulletin (PSB). A draft PSB is submitted to the Agency Procurement Officer (APO) and State Purchasing Officer (SPO) for review and approval prior to advertisement.

Issue Solicitation

Solicitation of the PSB

In advance of issuing each PSB, the Tollway publishes

a Look Ahead with approximate timing (quarters or seasons) of upcoming projects on its website. Items shown are tentatively planned to occur throughout the year. The Look Ahead usually includes the corridor and type of work anticipated (construction management or design). This Look Ahead is a valuable tool for business owners, allowing them to forecast and plan ahead.

The Look Ahead is posted on the Tollway's website, illinoistollway.com

Tentative Schedule Professional Services Bulletins (PSB)				
Activity	Publish PSB	Statements of Interest Due	Selection Meeting	Type of Work
PSB 18-3	Summer	TBD	TBD	<ul style="list-style-type: none">One construction management contract for the mile long bridge on the Tri-State Tollway.One construction management contract for the BNSF bridge on the Tri-State Tollway.One design and construction management upon request contract for I-490.One construction management contract on the Tri-State Tollway.One construction management upon request contract on the Tri-State Tollway.One construction management upon request contract.One geotechnical services upon request contract.One subsurface utility engineering contract.One survey upon request contract.One contract related to ITS services.

Publication dates, number of contracts and type of work is subject to change. As of 6/13/18

NOTICE

All responses to PSB 18-3 will be submitted via the Illinois Tollway's Web-based Program Management System (e-Builder) via the PSB Statement of Interest and Selection (PSB SOI) e-Builder process. e-Builder training will be provided for all consultants at no cost via a GoToMeeting webinar and in-person training. Training is strongly recommended to obtain access to the PSB SOI process in e-Builder. Contact ebuilder@getpages.com for an access key.

To obtain access to the GoToMeeting webinar training all consultants must self-register via the Tollway's Online Registration Center. The link for training registration has been provided below. Additional training will be scheduled.

<http://www.onlineregistrationcenter.com/registerlist.asp?tm=176&pc=125&group=355&id=222>

The Tollway issues a PSB by posting it on its website, by publishing it on the state of Illinois' Procurement Bulletin website and via email notices. In general, the email notification is sent to consultants on the Illinois Department of Transportation (IDOT) Consultant Prequalification list, and to consultants who have registered through the Central Management Services (CMS) Procurement website and registered under class and sub-class codes utilized by the Illinois Tollway for notification purposes.

The PSB must be advertised for a minimum of 14 days prior to the submittal due date (per the state of Illinois Architectural, Engineering and Land Surveying Qualifications-Based Selection Act (30 ILCS 535/25 (QBS Act)). All questions from prospective consultants pertaining to the specific work requirements are submitted electronically to a Tollway PSB email mailbox. Questions and answers are summarized and published via an addendum seven days prior to the Statement of Interest submittal due date. The Tollway allows for seven days to review and prepare responses to questions and allow firms enough time to review the Tollway's responses.

If necessary, an addendum can be issued to clarify any portion of the work. The addendum is reviewed and receives approval from the SPO prior to it being issued. The addendum is issued electronically to all firms on the electronic consultant notification list as well as via the Illinois Procurement Bulletin (IPB) website.

Collect and Review Responses Firms Submit Statement of Interest

Consultants prepare a Statement of Interest (SOI) per the requirements indicated in the PSB and submit electronically.

Upon receipt, the Tollway performs an administrative review for compliance. This administrative review includes, but is not limited to, reviewing the SOI for completeness, verifying consultant prequalifications, verifying consultant disclosure forms, and verifying conformance with the PSB submittal requirements as identified in the PSB.

Any potential disqualifications are compiled and approved by the APO and SPO. Upon completion, the Tollway begins a tiered process to review and score each SOI submitted for each item.

Once responses have been submitted, the Tollway conducts an administrative review to ensure proper documentation, forms and requested items are included in the submittal to ensure the information is evaluated for compliance. The Diversity Department staff also reviews the SOI to ensure the respondent has adhered to advertised diversity goals.

Any potential disqualifications at this point in the process are compiled and ultimately approved by the Tollway's Chief of Procurement and the SPO.

Selection Committee Participants

The final selection committee for PSBs can vary, depending on the scope of the work. Typically, it contains representatives from key Tollway departments impacted by these services along with an outside industry representative.

Following the Tollway's Policy for the Selection of Architectural-Engineering-Surveying Consulting Firms, the Chief Engineering Officer will nominate members of the Consultant Selection Committee (CSC) for approval by the Executive Director.

In addition to the Chief Engineering Officer and Deputy Chief Engineers, the CSC may contain members from:

- » Tollway departments other than Engineering
- » Members from groups external to the Tollway, not to exceed 50 percent of the total CSC composition
- » Staff from the Illinois Department of Transportation (IDOT); a non-voting member whose responsibility is to provide information related to the proposing firms' new or existing work on IDOT projects and how that may impact performance of the Tollway PSB Item or other general information related to their experience with any firms under consideration for Tollway work
- » Representative(s) from a public industry group may be included on the CSC, whose responsibility is to provide pertinent industry information that would assist in the selection process

The inclusion of an outside industry representative is standard on all Tollway selections.

Firm Selection

In order to ensure a thorough review and consideration of each SOI, a tiered review process is used. Tier 1 reviews, scores and ranks firms based on specific criteria. The selection criteria are noted in the PSB, so firms are aware of how they are being

evaluated. The criteria includes:

- » Related experience and technical competence of the personnel and experience of the firms and/or subconsultants proposed
- » Familiarity of the firm and any proposed subconsultants with the work described in the Item; particular attention will be given to appropriate cost saving measures and innovative ideas that will benefit the Tollway
- » Ability to complete the work in the time required and the firm's existing workload
- » Commitment and availability of key personnel
- » Proposed method of accomplishing the project's objectives

Consideration is also given to the quality and scope of how the firm is meeting the Tollway's D/M/WBE and/or veteran goals.

Tiered Selection Review Process

Tier 1

Tier 1 in the review process consists of a detailed review of each SOI and scoring of the SOI with respect to the advertised criteria. The Chief Engineering Officer assigns the items to be reviewed and scored to a minimum of two PSB scorers from the Engineering Department*, one of which typically has responsibilities for the work to be performed and is most familiar with the scope of work covered by the item assigned. The list of Tier 1 reviewers is also approved by the Executive Director.

Each Tier 1 reviewer completes a PSB scorecard [see appendix p. 251]. The result is an objective, quantitative score for each SOI along with any noted reviewer comments. Upon completion, Tier 1 results are compiled.

**In all evaluations since 2014, three scorers have been assigned to each item.*

Tier 2

Tier 2 engages Engineering's most experienced staff (Chief and Deputy Chiefs) along with a representative from Diversity. This tier has an opportunity to engage Diversity, considering goals met, in addition to meaningful teams and opportunities to grow new firms. It is also an opportunity for Deputy Chiefs to consider the past performance and gauge new opportunities for firms. In this tier, the Tier 1 results are reviewed, Diversity provides input on the D/M/WBE aspects of the SOIs and the top firms are identified.

Tier 3

Tier 3 requires the CSC to nominate, deliberate, discuss and conduct silent votes to select the three most qualified consultants and report them in a ranked order. Every selection committee member is allowed to nominate a firm or firms for consideration. A vote is taken to determine the ranked order of those firms being considered for selection. The committee members cast confidential votes, which are tallied by a Tollway representative.

The following highlights the specific tiers and who performs these functions.

After the CSC completes their final selection, and upon Executive Director approval, the top ranked firm and their subconsultants are posted to the Tollway website, a copy of which is also provided to the SPO.

Negotiations

Following selections, and in accordance with state laws pertaining to QBS, the Tollway is allowed to begin negotiations with the top-ranked firm. This is an important step in final scoping of the proposed contract and arriving at a fair and reasonable price. The project manager of the item will typically finalize the scope and conduct contract negotiations. Any changes to personnel or subconsultants will be noted during this time. If negotiations cannot be successfully concluded (this is rare), the QBS Act allows the Tollway to begin negotiations with the second highest ranked firm.

Upon conclusion of negotiations and preparation of the consultant proposal and agreement, the Chief Engineering Officer makes a recommendation to the Board of Directors to award the contract. All QBS contract awards are made by the Tollway's Board of Directors. Upon Board approval and posting of the Notice of Award to the CPO's Illinois Procurement Bulletin (IPB) website, a contract waiver is requested from the Procurement Policy Board (PPB) (via the IPB website). Granting of the waiver allows the Tollway to execute the contract within 14 days as opposed to the normal 30-day public notice.

Miscellaneous

CSC members, the PSB scorers, and PSB coordinator are required to sign Confidentiality and No Conflict statements prior to selection. The documents are maintained in the PSB procurement file.

Notice and Selection of Professional Services - Foundational Consultants (3100B)

This procedure identifies the Illinois Tollway's method of securing professionals and/or consultants to provide professional services as foundational consultants in a way that enhances and advances the Tollway mission. Foundational consultants are those firms historically serving as Consulting Engineer (also referred to as General Engineering Consultant (GEC)), the Program Management Office (PMO) and the Traffic Engineer. These foundational consultants provide a broad range of services that typically extend beyond the Engineering Department. Their tasks may be required by law or the Trust Indenture. The Tollway's foundational consultants are:

General Engineering Consultant (GEC)

Responsible for monitoring the condition of the Tollway's infrastructure and facilities, providing technical engineering services, and developing technical standards and criteria for the Tollway. The Tollway's Trust Indenture requires a GEC.

WSP serves as the Tollway GEC.

Program Management Office (PMO)

Responsible for management and monitoring of the implementation of the 15-year, \$14 billion *Move Illinois* Program. This includes tracking the program's progress, project schedules, cost estimates, acceleration opportunities and necessary reporting for all projects in the capital program.

HNTB Corporation serves as the Tollway PMO.

Traffic Engineer

Functionally located within the Tollway's Planning Department, the Traffic Engineer provides traffic and revenue projections as required by the Tollway's Trust Indenture. The Traffic Engineer also works closely with the Engineering Department in the review of traffic aspects of daily operations and planned improvements.

CDM Smith serves as the Tollway Traffic Engineer.

These foundational consultants help the Tollway deliver a safe, reliable and effective roadway network to customers.

Identify the Need

Development of the Professional Services Bulletin (PSB)

The need for a project is based upon the capital program scope and schedule or as determined by the Trust Indenture. The Tollway develops a description for each contract solicited. This description includes:

- » Location of work area
- » Description of services required
- » Qualifications required of the consultant
- » Key personnel qualifications required to complete the work
- » Identification of required information to submit

Once an item is prepared, the Department of Diversity and Strategic Development (Diversity) sets individual project D/M/WBE goals. All of this information is collated into a Professional Services Bulletin (PSB). A draft PSB is submitted to the Executive Director, Chief Operating Officer and Chairman of the Tollway Board for review and approval and then to the Agency Procurement Officer (APO) and State Purchasing Officer (SPO) for review and approval prior to advertisement.

Issue Solicitation

Solicitation of the PSB

In advance of issuing each PSB, the Tollway publishes a Look Ahead with approximate timing (quarters or seasons) of upcoming projects. Items shown are tentatively planned to occur in the following year. The Look Ahead usually includes the corridor and type of work anticipated (construction management or design). This Look Ahead is a valuable tool for business owners, allowing them to forecast and plan ahead.

The Tollway issues a PSB by posting it on its website, by publishing it on the state of Illinois' Procurement Bulletin (IPB) website and via email notices. In general, the email notification is sent to consultants on the IDOT Consultant Prequalification list, and to consultants who have registered through the CPO's Procurement website and registered under class and sub-class codes utilized by the Illinois Tollway for notification purposes.

The PSB must be advertised for a minimum of 14 days prior to the submittal due date (per the state of Illinois Architectural, Engineering and Land Surveying Qualifications-Based Selection Act (30 ILCS 535/25) (QBS Act)). All questions from prospective consultants pertaining to the specific work requirements are submitted electronically to a Tollway PSB email mailbox. Questions and answers will be summarized and published via an addendum

seven days prior to the Statement of Interest (SOI) submittal due date. The Tollway allows for seven days to review and prepare responses to questions and allow firms enough time to review the Tollway's responses.

If necessary, an addendum will also be issued to clarify any portion of the work. The addendum is reviewed and receives approval from the Executive Director, Chief Operating Officer and Chairman of the Tollway Board, then the SPO prior to it being issued. The addendum is issued electronically to all firms on the electronic consultant notification list as well as via the IPB website.

Collect and Review Responses

Firms Submit Statement of Interest (SOI)

Vendors prepare a Statement of Interest (SOI) per the requirements indicated in the PSB and submit electronically.

Upon receipt, the Tollway performs an administrative review for compliance. This administrative review includes, but is not limited to, reviewing the SOI for completeness, verifying consultant prequalifications, verifying consultant disclosure forms, and verifying conformance with the PSB submittal requirements as identified in the PSB.

Any potential bases for disqualification are compiled and approved by the APO and CPO. Upon completion, the Tollway begins a tiered process to review and score each SOI submitted for each item.

Once responses have been submitted, the Tollway conducts an administrative review to ensure proper documentation, forms and requested items are included in the submittal to ensure the information is evaluated for compliance. The Diversity Department staff also reviews the SOI to ensure the respondent has responded to advertised diversity goals. Any potential disqualifications at this point in the process are compiled and ultimately approved by the Tollway's Chief of Procurement and the SPO.

Selection Committee Participants

The Chief Engineering Officer will nominate members of the Consultant Selection Committee (CSC) for approval by the Executive Director, the

Chief Operating Officer and the Chairman of the Tollway Board.

In addition to the Chief Engineering Officer, the CSC may contain members from:

- » Tollway departments other than Engineering
- » Members from groups external to the Tollway, not to exceed 50 percent of the total CSC composition
- » Staff from the Illinois Department of Transportation (IDOT); a non-voting member whose responsibility is to provide information related to the proposing firms' new or existing work on IDOT projects and how that may impact performance of the Tollway PSB Item or other general information related to their experience with any firms under consideration for Tollway work.
- » Representative(s) from a public industry group may be included on the CSC, whose responsibility is to provide pertinent industry information that would assist in the selection process.

The inclusion of an outside industry representative is standard on all Tollway QBS selections.

Firm Selection

In order to ensure a thorough review and consideration of each SOI, a tiered review process is used. Reviewers evaluate firms based on specific selection criteria, as noted in the PSB, so firms are aware of these items. The criteria includes:

- » Related experience and technical competence of the personnel and experience of the firms and/or Subconsultants proposed
- » Familiarity of the firm and any proposed subconsultants with the work described in the Item; particular attention will be given to appropriate cost saving measures and innovative ideas that will benefit the Tollway
- » Ability to complete the work in the time required and the firm's existing workload
- » Commitment and availability of key personnel
- » Proposed method of accomplishing the project's objectives

Consideration is also given to the quality and scope of how the firm meetings the Tollway's diversity and/or veteran goals.

Tier 1

Tier 1 consists of a detailed review of each statement of interest and scoring of the SOI with respect to the advertised criteria. Following consultation with the Chief Engineering Officer; the Executive Director, Chief Operating Officer and Tollway Board Chairman shall assign the items to be reviewed and scored to a minimum of two PSB scorers who are familiar with the work.

For these contracts based on the qualifications and requirement of national expertise, there is a limited response from the consulting community. The CSC typically serves as the Tier 1 reviewers.

Each Tier 1 reviewer completes a PSB scorecard [see appendix p. 251]. The result is an objective, quantitative score for each SOI along with any noted reviewer comments. Upon completion, Tier 1 results are compiled.

Tier 2

In this phase, each CSC member has an opportunity to nominate a firm for consideration for further discussion and deliberation among the CSC. The CSC invites firms to make oral presentations to the selection committee.

The CSC convenes a public meeting following not less than five days' public notice. This meeting is open to the public except for discussions regarding proprietary information, which may be discussed in closed sessions afterwards. At the public meeting, the Chief Engineering Officer introduces firms and provides a description of each item. Each firm provides a general public presentation, followed by a presentation only to the CSC members to discuss any proprietary information. Each CSC member deliberates following the presentations and the CSC publicly presents votes and the ranked order of the three most qualified consultants. The CSC reports the top firms in ranked order based on the PSB Item Scorecard results, oral presentations and other pertinent factors.

If there is a clear number one but a tie between the remaining firms, then another vote is presented publicly to establish the placement of second and third place. If the CSC deems it appropriate to adjourn a meeting and convene at a future date, the Tollway will also provide advance notice to the public of the continued CSC meeting as soon as reasonably practicable.

Tiered Selection Review Process

The following highlights the specific tiers and who performs these functions.

After the CSC completes final selection, the top ranked firm – including its subconsultants – for each foundational consultant project is posted to the Tollway's website, a copy of which is provided to the SPO.

Negotiations

Following selections, and in accordance with state laws pertaining to QBS, the Tollway is allowed to begin negotiations with the top ranked firm. The project managers – in consultation with the Chief Engineering Officer, Chief Operating Officer, Executive Director and Tollway Board Chairman – will typically finalize the scope and conduct contract negotiations. Any changes to personnel or subconsultants will be noted in writing to the Board of Directors during this time. Any changes to D/M/WBE subconsultant changes will be coordinated with Diversity.

Upon conclusion of negotiations and preparation of the consultant proposal and agreement, the Chief Engineering Officer makes a recommendation to the Board of Directors to award the contract. All QBS contract awards are made by the Tollway's Board of Directors. Upon Board approval and posting of the Notice of Award to the CPO Illinois Procurement Bulletin (IPB) website, a contract waiver is requested from the Procurement Policy Board (PPB) (via the IPB website). Granting of the waiver allows the Tollway to execute the contract prior to the designated 30-day public notice.

Miscellaneous

CSC members, the PSB scorers, and PSB coordinator are required to sign no conflict statements prior to selection. All documents will be maintained in the PSB procurement file. It is the Tollway's policy that no consultant, professional or other entity shall be selected for, or be a party to, a Tollway foundational contract for over 10 consecutive years. It is the Tollway's policy that unless prohibited by law, all documents received or created under this procedure will be made available for public inspection as soon as reasonably practicable following completion of Tier 2 review by the CSC

Federal and State Processes

Federal law prescribes that any architecture and engineering projects where federal funds are utilized require the adoption of QBS processes for selection. Because the scopes of these projects are not entirely defined at the time of the procurement, price bidding is not an effective method of selecting this professional service. Since these projects also have an impact on the public at large, federal law specifically defines the selection process to ensure safe and quality services are rendered.

Similarly, almost all states have adopted QBS for their selection process on architecture and engineering projects. The State of Illinois has adopted a QBS process.

The Illinois Tollway selects professional engineering firms, construction services and obtains goods and services under distinct processes as directed by federal and Illinois state law.

The selection of professional engineering services is based on qualifications and not price, which is in accordance with federal and state law.

Federal Law:

Federal Selection of Architects and Engineers – The Brooks Act

Commonly known as The Brooks Act (Public Law 92-582)³, this federal law designates a QBS procurement process to select architects and engineers for design contracts with federal design and construction agencies [see appendix p. 256]. For more than 40 years, contracts under QBS have been negotiated on the basis of demonstrated competence and qualifications – not price.

Under the federal process for pursuing design work, there are seven basic steps that guide selections:

- 1 Public Solicitation**
Requires public notices and adequate public information
- 2 Submitting qualifications and ability**
Includes annual statements with qualifications to perform work and supplemental statements highlighting ability
- 3 Evaluation of both annual and project-specific statements**
Review for compliance and ability to solve need identified in solicitation
- 4 Development of a short-list of at least three submitting firms**
Top responses advance to the next stage of evaluation
- 5 Interviews**
Top firms present their proposals to the evaluation committee
- 6 Ranking of at least top three most qualified firms**
Scores are tallied and the most qualified firm advances
- 7 Negotiations with top ranked firm**
Firm enters into negotiation to determine best and fair price for scope of work

³ The Brooks Act: <https://www.gpo.gov/fdsys/pkg/STATUTE-86/pdf/STATUTE-86-Pg1278.pdf>

State Law:

Architectural, Engineering and Land Surveying Qualifications-Based Selection Act

Selecting professional engineering services based on qualifications, not price, is in accordance with Illinois Public Act 87-673⁴ (Chapter 30 of the Illinois Compiled Statutes Section 535): the Architectural, Engineering and Land Surveying Qualifications-Based Selection Act, also known as the QBS Act [see appendix p. 258]. This law outlines the state policy on the procurement of architectural, engineering and land surveying services based on demonstrated competence and qualifications.

1 Public notice

No less than a 14-day notice in a Professional Services Bulletin (PSB)

2 Evaluation procedure

a Evaluate letter of interest and includes – but is not limited to – ability of professional personnel, past record and experience, performance data, ability to meet time requirements, location, workload and any other qualification factors

b Establish a selection committee

- » Includes at least one public member nominated by statewide association of profession affected
- » Illinois Department of Transportation (IDOT) may appoint public members to represent geographic, ethnic and cultural diversity of state but must be licensed
- » Cannot request cost estimates in terms of dollars, hours, percentage of construction cost or any other measure of compensation

c Section procedure

- » Select no less than three firms and rank in order of qualifications
- » Negotiate with most preferred at a fair and reasonable compensation

d Contract negotiation

- » Written description of scope for basis of negotiations
- » Consider estimated value, scope, complexity and professional nature of services
- » Cannot establish a maximum overhead rate or other payment formula
- » If satisfactory contract is not possible, next preferred firm can begin negotiations
- » Firm negotiating contract shall negotiate subcontractors

⁴ Illinois QBS: <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=538&ChapterID=7&Print=True>

Joint Committee on Administrative Rules (JCAR)

In response to the Illinois QBS Act, the Joint Committee on Administrative Rules (JCAR) approved an administrative code⁵ specific to the IDOT [see appendix p. 262]. JCAR was established to adequately inform members of the General Assembly on how laws are implemented throughout the state's agencies. The JCAR rules also help facilitate a public understanding of the rules and regulations outlined. Any legislation that affects rule making are monitored by JCAR and a Public Act review is conducted to alert agencies on the need for additional rule making. JCAR maintains the state's database for the Illinois Administrative Code and the Illinois Register.

The Illinois Tollway adopted and adheres to these JCAR rules.

JCAR rules are designed to be procedural and operational, and provide structure to encourage uniformity and provide a successful outcome.

On IDOT projects utilizing the QBS selection processes, the following outlines both selection processes for selecting IDOT consultants as well as the selection committee members evaluating proposals:

Rules and guidelines for selecting IDOT consultants:

- » Applies to all architectural, engineering and land surveying services over \$25,000
- » Prime consultants or subconsultants must be prequalified before any consideration can be given
- » Services procured must be published in its Professional Transportation Bulletin (PTB)
- » Prime consultants must submit a statement of interest (SOI)
- » 7-member Selection Committee (*see adjacent "IDOT Selection Committee" box*)
 - » Review experience, statement of interest and evaluation of previous work
 - » Rank firms in order
 - » Prepare a list for the selection committee to show firm rankings and determine minority-owned participation and considerations
 - » Rankings made upon unanimous agreement of reviewers with irreconcilable differences noted as materials are submitted to Selection Committee
 - » Voice and then written votes
- » Second and third choice firms are confidential unless negotiations fail

IDOT Selection Committee:

CHAIR



Deputy Secretary of Transportation

DEPARTMENT REPRESENTATIVES



Director of requesting Division or designee



Regional engineer or bureau chief



Director of Office of Planning and Programming

PUBLIC MEMBERS[^]



Appointed by Secretary of Transportation



Appointed by Illinois Society of Professional Engineers



Appointed by Illinois Society of Professional Engineers

[^]Must have professional experience in transportation or engineering

⁵ JCAR: <http://www.ilga.gov/jcar/admincode/044/04400625sections.html>

Illinois Department of Transportation (IDOT)

The professional services process at the Illinois Tollway closely reflects the IDOT process [see appendix p. 280]. For a firm to be eligible for Tollway work, the vendor must be prequalified by the Illinois Department of Transportation in the discipline of work they look to perform. Disciplines include Professional Engineering, Structural Engineering, Land Surveying and/or Architecture.

The IDOT prequalifications process requires all firms – primes and subconsultants – seeking opportunities in engineering, land surveying and architectural work to provide the following items in the desired specialization⁶:

- » Required completion of a questionnaire
- » Registered through Illinois Department of Financial and Professional Regulations (IDFPR)
- » Illinois licensing or registration (where so stipulated), within a leadership role
- » Full-time staff on pertinent projects relevant to the category of work previously performed within the last 10 years
- » Completed projects are required (during submission, excluding ongoing projects)
- » Firm experience (inclusive of Principal Supervisory Personnel) demonstrated in the Statement of Experience
- » Framework of current personnel experience and capabilities

⁶ IDOT Prequalification Process: <http://www.idot.illinois.gov/Assets/uploads/files/Doing-Business/Manuals-Guides-&-Handbooks/Highways/Design-and-Environment/Description%20and%20Minimum%20Requirements.pdf>

International Standards Organization (ISO) Standards

To ensure the Tollway was adopting the best possible processes for making selections, the Tollway documented the process in its International Standard Organization (ISO) procedures that spell out exactly how the process would work and who is involved at each step. These processes have been refined and vetted with input from industry, professional engineers and from best practices from other states.

The ISO process is an internationally recognized certification that is designed to provide high-level customer service through continuous improvement. It involves documenting processes and procedures, making them available to those who must use them, and then refining and measuring performance through regular internal and external audits.

The current process was documented in the Engineering's ISO procedure 3100 following an audit by the Auditor General in 2012. The process is also coordinated with the Tollway's Board of Directors, the Chief Procurement Office (CPO) for the State of Illinois, the State Purchasing Officer (SPO), Legal, Procurement and the industry – which includes the American Society of Civil Engineers (ASCE), the American Council of Engineering Companies (ACEC) and the Illinois Road and Transportation Builders' Association (IRTBA).

About the Qualifications-Based Selection Process

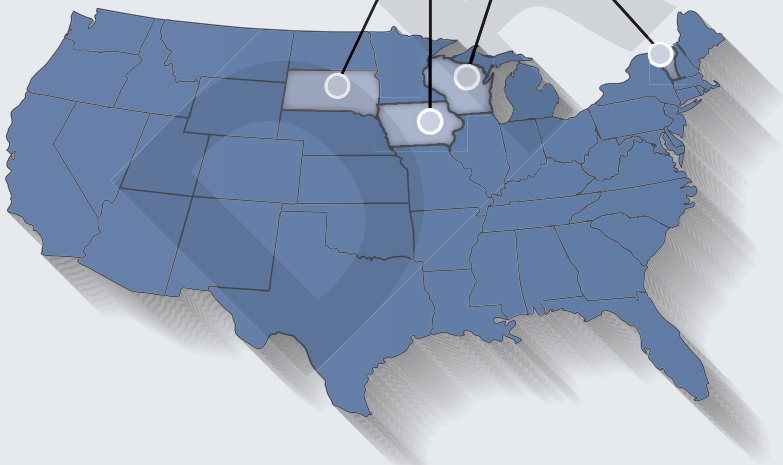
The Qualifications-Based Selection (QBS) Act mandates state agencies procuring architectural, engineering and land surveying services to select on the basis of demonstrated competence and qualifications followed by the negotiation of fair and reasonable prices for this work.

QBS is typical in the industry and across the nation for professional engineering services. This process is used by all federal agencies, 46 state governments⁷ and many localities throughout the country excluding, the states of Iowa, South Dakota, Vermont and Wisconsin⁸ [see appendix pp. 313-315].

The Tollway follows a formal selection process for all engineering services in accordance with federal and state laws.

U.S. States that Implement QBS

Only 4 out of 50 states do not use QBS:
Iowa, South Dakota, Vermont and Wisconsin



Diversity and the QBS Process

The Department of Diversity and Strategic Development reviews all Professional Services Bulletin (PSB) Statements of Interest (SOIs) to determine the proposed overall commitment by teams vying for prime consultant work on Tollway projects. The SOIs are also evaluated on the following criteria:

- » Proposed D/M/WBE primes
- » Prior history of performance on Tollway contracts
- » Proposed Partnering for Growth (P4G) agreements

Diversity reviews all SOIs to ensure submittals adhere to the minimum D/M/WBE goals set forth by the Tollway. Elements considered include:

- » Diversity Balance
- » Proposed DBE primes
- » Firm history
- » Proposed P4G agreements
- » Underutilized participation

⁷ ACEC QBS Resource Center: <https://www.acec.org/advocacy/qbs/>

⁸ ACEC States that Implement QBS: https://www.acec.org/default/assets/File/ACEC_Survey_of_State_QBS_Laws_and_Registrations-Boards_3-26-18.pdf

Benefits of Qualifications-Based Selection

Qualifications-Based Selection (QBS) ensures the agency is receiving the best talent to address its highly technical needs. Based on experience and qualifications, the QBS process drives innovation and encourages greater participation. It is widely used to protect the interests of the public and provide an efficient process throughout the project.

The descriptions below outline key benefits for an agency to pursue QBS processes:

A recent study found that using a QBS process to procure engineering services results in lower construction costs and lower schedule growth, which saves money.

1 Protecting the public.

The services procured under the QBS Act are highly skilled services impacting the public way. Engineers design the infrastructure, systems and networks needed and used by the public every single day. This work directly affects the health, safety and welfare of the public and it is important that only the most qualified and experienced firms be tasked with this critical function. These highly skilled services are too important to leave to the lowest bid.

2 Fiscally responsible.

According to the American Council of Engineering Companies, "a well-designed project by a highly qualified firm will provide a quality product prepared in accordance with all federal and state requirements on time and on budget deliverables, solve construction and operational challenges, experience fewer change orders during construction, enhance performance of the completed project and reduce long-term maintenance and repair costs." A recent study found that using a QBS process to procure engineering services results in lower construction costs and lower schedule growth, which saves money.

3 Building capacity.

Under the QBS process, small firms can demonstrate what is often a unique niche market expertise as they compete for work. The QBS process provides a forum that allows greater involvement in the execution of projects and allows small businesses to demonstrate their qualifications and knowledge in greater detail.

4 Promotes Technical Innovation.

The QBS process allows for innovative, cost-saving and time-saving approaches to problems, ensuring that the final project meets or exceeds the functional and performance goals. QBS allows the Tollway to fully define the project scope throughout the selection process.

Other Procurement

Just as the Tollway follows the state-mandated and industry standard QBS process for selection for the firms that design, engineer and manage its major infrastructure projects, as well as, the foundational firms that guide and review its systemwide programs, the Tollway also follows all other applicable Illinois agency guidelines and procedures for the procurement of goods and services [see appendix p. 321].

Invitation for Bid

An Invitation for Bid (IFB) is used when the Tollway awards procurement to the lowest responsible bidder. Examples of when an IFB is used would be on routine commodity and equipment solicitations, including aggregates, vehicles, heavy equipment and roadway construction projects. This method is used when the specifications are known and clear.

Responsible bidders are companies that have the financial capacity to perform the contract, among other factors. This determination can also be based on past performance or prior work. Vendors also need to be a legal entity authorized to conduct business in Illinois.

Responsive bidders are companies that meet all the requirements set forth in the solicitation document. Vendors also must complete all required forms, such as financial disclosures.

Note: Goods and services solicitations are now advertised on the state's e-procurement system called BidBuy. They were previously published on the Illinois Procurement Bulletin (IPB). BidBuy is now the website where Tollway and other agency solicitation and award notices are posted. The processes charts referenced in this section are currently being redeveloped to account for the changes created by the BidBuy process.

Request for Proposal

A Request for Proposal (RFP) is used for various services including general consulting services, IT projects, professional services and insurance-related procurements. This method is used when looking

for the best value, taking into consideration both technical and pricing points.

The RFP Professional and Artistic Method is used when qualifying firms based on education, experience and technical ability, such as legal, audit and accounting services.

These solicitations are now advertised on BidBuy.

Sole Source

Sole source procurements are used when there is only one vendor who can provide the goods or services used by the Tollway. Sole source hearing notices are published on BidBuy and hearings are open to any interested parties that express interest in attending the sole source hearing.

These procurements are approved by the Chief Procurement Officer's Office for General Services.

Small Purchases

Purchases of less than \$100,000 on certain types of contracts are procured via BidBuy through targeted messages to relevant small businesses.

Emergency

Emergency procurements are only used when there is an immediate need for a commodity or service that impacts one or more of these categories: life, health, safety or fiscal.

Procurement Oversight

The Tollway's procurement process is conducted in accordance with all applicable laws, rules, and regulations and falls under the same level of oversight and adheres to the same advertising, posting and award requirements as any other state agency, despite existing as a stand-alone agency.

Further, the Tollway is governed by a Board of Directors which awards every contract as required by law, and has its own independent Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, and mismanagement.

Finally, each and every procurement is further subject to review by the following entities:

Executive Ethics Commission (EEC)

The Procurement Code grants the EEC procurement authority for all of the agencies under the purview of the Governor. The main roles within this organization are as follows:

Chief Procurement Officer (CPO)

All procurement authority rests within this position and extends to supplies, services and construction that the authority procures. The CPO, or their designee, must approve all contracts prior to the authority executing them. This position is independent, and the CPO is appointed to a five-year term and can only be removed for cause. The CPO has rule-making authority and issues statewide procurement policies through CPO notices. The CPO exercises their procurement authority through one or more State Purchasing Officers and other agency staff assigned to the procurement function.

State Purchasing Officers (SPOs)

SPOs are appointed for a five-year term by the CPO and have a delegated authority to perform their function. The SPO has the responsibility to review and approve solicitations and contract awards prior to the agency issuing these documents to the public. The SPO has the responsibility to publish all solicitation and award notices to the public procurement websites. The SPO also reviews all potential conflicts of interest that are identified

during the procurement process.

Procurement Compliance Monitors (PCMs)

PCMs are responsible for overseeing and reviewing the procurement process, having access to the agency's procurement records, and attending any procurement related meeting in the agency. If the PCM request to review a contract before execution, the agency cannot execute it until the SPO approves.

Procurement Policy Board (PPB)

The PPB has a responsibility to review, comment upon and provide input on procurement rules and practices that govern procurement under the Procurement Code. The PPB has the authority to review, study and hold public hearings on anything subject to the Procurement Code. It can recommend any contract be voided if a violation of the Procurement Code exists. The PPB also reviews and makes recommendations on potential conflicts of interest that are identified during the procurement process.

Attorney General's Office – Tollway Legal Department

The Attorney General's Office is the Tollway's Legal Department as outlined in the Tollway's enabling legislation. It reviews and signs all Tollway contracts to form and constitutionality.

Case Study:

General Engineering Consultant (GEC) Contract from Advertisement to Notice to Proceed (NTP)

Internal Actions and Oversight	Dates and Details	External Actions and Oversight
<ul style="list-style-type: none"> » PSB email to Tollway distribution list » PSB posted to Tollway website 	02/16/2017 PSB 17-1 advertised	<ul style="list-style-type: none"> » IPB sends notification to designated NIGP code subscribers » PSB posted to IPB website
<ul style="list-style-type: none"> » Tollway provides SOI receipt 	04/03/2017 SOI deadline	
<ul style="list-style-type: none"> » Disqualifications identified (none for this contract) » Chief Engineering Officer nominates CSC members » CSC approval by Tollway Leadership » Review of SOI based on specific criteria, results in PSB scorecard » PSB scorecard submitted to CEO and CSC 	04/03/2017 Administrative review and Tier 1 begins	<ul style="list-style-type: none"> » Disqualifications approved by CPO (if required) » CSC signs no conflict agreement
<ul style="list-style-type: none"> » Closed interview for proprietary presentations » Top firm posted to Tollway website (5/16/2017) 	05/11/2017 Public meeting and Selection Committee Meeting	<ul style="list-style-type: none"> » Public meeting posted » Public presentations made » Public vote to select the most qualified consultants » Copy of vote provided to SPO
<ul style="list-style-type: none"> » Negotiations begin in consultation with Tollway Leadership » Chief Engineering Officer makes recommendation to Board 	05/11/2017 through 06/14/2017 Contract negotiation	
<ul style="list-style-type: none"> » Tollway reviews disclosure forms from prime and sub consultants 	06/19/2017 Review potential conflict	<ul style="list-style-type: none"> » SPO reviews disclosure forms for prime and sub consultants

Internal Actions and Oversight	Dates and Details	External Actions and Oversight
» FAO Committee recommends contract for approval to Board	06/19/2017 FAO Committee Meeting	
» Board approves contract	06/21/2017 Board Meeting	
» Tollway creates award notice with disclosures and submits to SPO	06/23/2017 Publish notice of intent to award to prime	» Notice of Award posted on CPO IPB website
	06/27/2017 Grant waiver for review and hearing	» PPB reviews disclosure forms and grants waiver within 14-day protest period
» Tollway routes contract for signatures by Legal, Finance and Executive Director	07/10/2017 Approve prime contract	» SPO gives express approval for prime contract by signing routing sheet
» Chief Engineering Officer issues conditional NTP to prime and subs (except those with disclosures under review)	07/12/2017 Issue conditional NTP to prime	
	07/13/2017 Deliberate conflict of interest	» SPO required to clear disclosure » PPB and CPO clear disclosure
	07/17/2017 No conflict of interest affirmed	» SPO, CPO and PPB affirm no conflict of interest
» Chief Engineering Officer issues full NTP	07/17/2017 Issue full NTP	

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Hiring

Within the hiring process, the Tollway follows different guidelines depending on the classification of the position to be filled.

These guidelines are differentiated between Rutan-covered positions and exempt positions. Rutan refers to the process that has been put in place by the State of Illinois in order to comply with the principles that were set forth in the U.S. Supreme Court decision of Rutan vs. the Republican Party of Illinois and the subsequent directors and administrative orders that have succeeded this decision.

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Rutan-Covered Positions

Illinois Tollway Rutan-Covered Employees

1,356

Rutan-Covered Employees



The Tollway complies with the requirements of *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990) and the Tollway's utilization of the State of Illinois Administrative Orders, Numbers 1 and 2 (1990), and Administrative Order Number 1 (1991), and those requirements contained within the collective bargaining agreements in place at the Tollway [see appendix p. 349].

The Rutan Process

The department chief with the vacant position(s) to be filled begins the hiring process. Information beginning the process includes:

- » Requisition for personnel form
- » Updated/revised job descriptions/requirements for the position
- » Interview questions (Rutan-required)

On September 10, 2014, the Tollway began using NEOGOV, an online application system to assist prospective and current employees in the job application process.

Note: For positions that are at a supervisor or manager level, the position may be posted internal only.

Anyone interested in applying for work at the Illinois Tollway can apply via the Illinois Tollway website, illinoistollway.com, under the "About the Tollway" and "Employment Opportunities" tabs.

Job Qualifications

To be selected for a position, an applicant must:

- » Meet the minimum requirements
- » Pass a written exam (if applicable)
- » Pass an oral interview
- » Provide (if applicable) certified transcripts, certifications, and licenses upon candidate processing or transfer
- » Satisfy a background check

Interviews

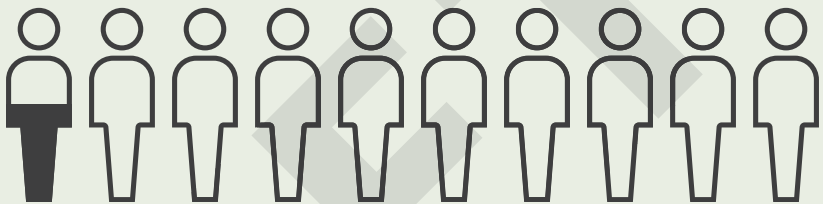
The Employee Services Coordinator organizes Rutan interviews. These interviews are conducted in strict accordance with Rutan law where a panel interviews and ranks candidates based on equal, pre-established criteria.

Exempt Positions

Illinois Tollway Exempt Employees

83

Exempt Employees



The overwhelming majority of Tollway employees are Rutan-covered and are hired under a detailed, structured interview process as prescribed by law.

Parallel to the State of Illinois, the Tollway maintains an "at will" employment relationship with the remaining 83 exempt positions that are annually reviewed by the Tollway's Internal Audit Department. These positions allow for a greater latitude in employment decisions to hire qualified personnel.

For these positions, there are three general responsibilities within a position that allow the position to sit outside the Rutan process. These responsibilities include policy development, spokesperson obligations and roles that require a level of confidentiality. Once a determination is made that the job falls into one of those three general areas, that position is deemed exempt.

The Tollway guidelines on selection decisions must:

- » Be based on the candidate's ability to perform the job
- » Provide equal opportunity for all qualified candidates
- » Provide an objective process for evaluating the candidates
- » Prohibit hiring decisions on party affiliation or support, unless otherwise consistent with the law
- » Provide the Tollway maximum lawful discretion in making selection decisions
- » Adequately document all employment decisions

Advertising Exempt Positions

For positions that are at a supervisor or manager level, the department chief may recommend the position be advertised internal only. The Chief of Administration will make the determination as to whether the recruitment will be internal or internal/external after consideration and discussion with the affected department chief.

In the event there is a desire to advertise the position externally, outlets are selected by the hiring manager and administration. If not, the vacant position is internally advertised and may be designated to be posted only in specific areas, such as the department that is hiring.

Note that either of these methods may be used at the discretion of the Executive Director and/or for interim positions, which may include emergency hires – positions where related job duties require immediate attention – for critical leadership vacancies.

In selecting candidates to interview, the hiring manager determines the number of applicants to interview. The candidate hired is based on the minimum requirements including education, training and experience outlined in the job description. The hiring manager is given the flexibility to conduct preliminary and secondary interviews.

The approval of the justification memo by the Executive Director drives the offer for employment.

Elements of exempt positions hiring process:

- » Need justification
- » Position approval
- » Applicant recruitment
- » Receipt and processing of resumes/ applications
- » Selection of applicants
- » Interviewing
- » Final approval, which includes sign off by the Executive Director or the justification memo

Hiring Process Improvements

One of the most critical and costly decisions any organization makes is related to the selection of new employees. Recruiting and selecting under-qualified candidates comes with a huge negative cost, which no organization can afford. Selecting qualified candidates with the Knowledge, Skills and Abilities (KSAs), as well as the potential to grow, is crucial to the Tollway's ability to deliver its products and services safely, efficiently, effectively and with a high degree quality.

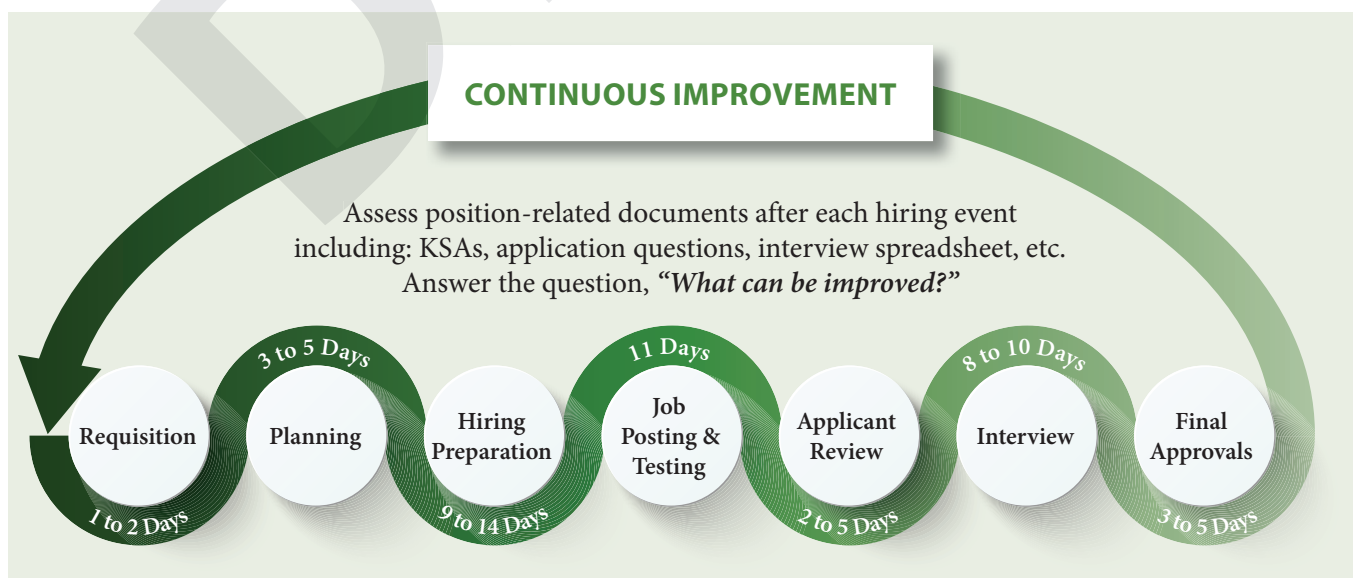
Over time many Illinois state agencies inadvertently became choked with ineffective hiring processes while attempting to comply with Rutan-related hiring guidance. Some of the negative effects of the Tollway's Rutan-covered hiring process included:

- » Transparency risk associated with hiring decisions
- » Lack of specificity risk across roles, responsibilities, duties and success factors
- » Extensive time to hire at more than 10 months
- » Manual ranking and sorting
- » Human bias risk throughout
- » Low quality interviews

- » Underutilized IT investments
- » Paper intensive

To address the identified hiring process challenges, a structured road map to business process improvement was developed to assist the Tollway in the transition from its current state hiring processes to an improved future state. The road map to improvement leveraged best practices across Lean and Business Process Improvement (BPI). This road-map provided a set of phased activities for the analysis of existing hiring processes with the specific purpose of identifying improvement opportunities. The Tollway identified the following objects in their road map:

- » Ensure a clear, transparent, non-biased and verifiably non-political selection process
- » Ensure the highest qualified candidate is selected and subsequently hired
- » Diversity impacts visible at all points
- » Blind, non-biased and automated filtering based on alignment to position description
- » Significantly leverage available technology

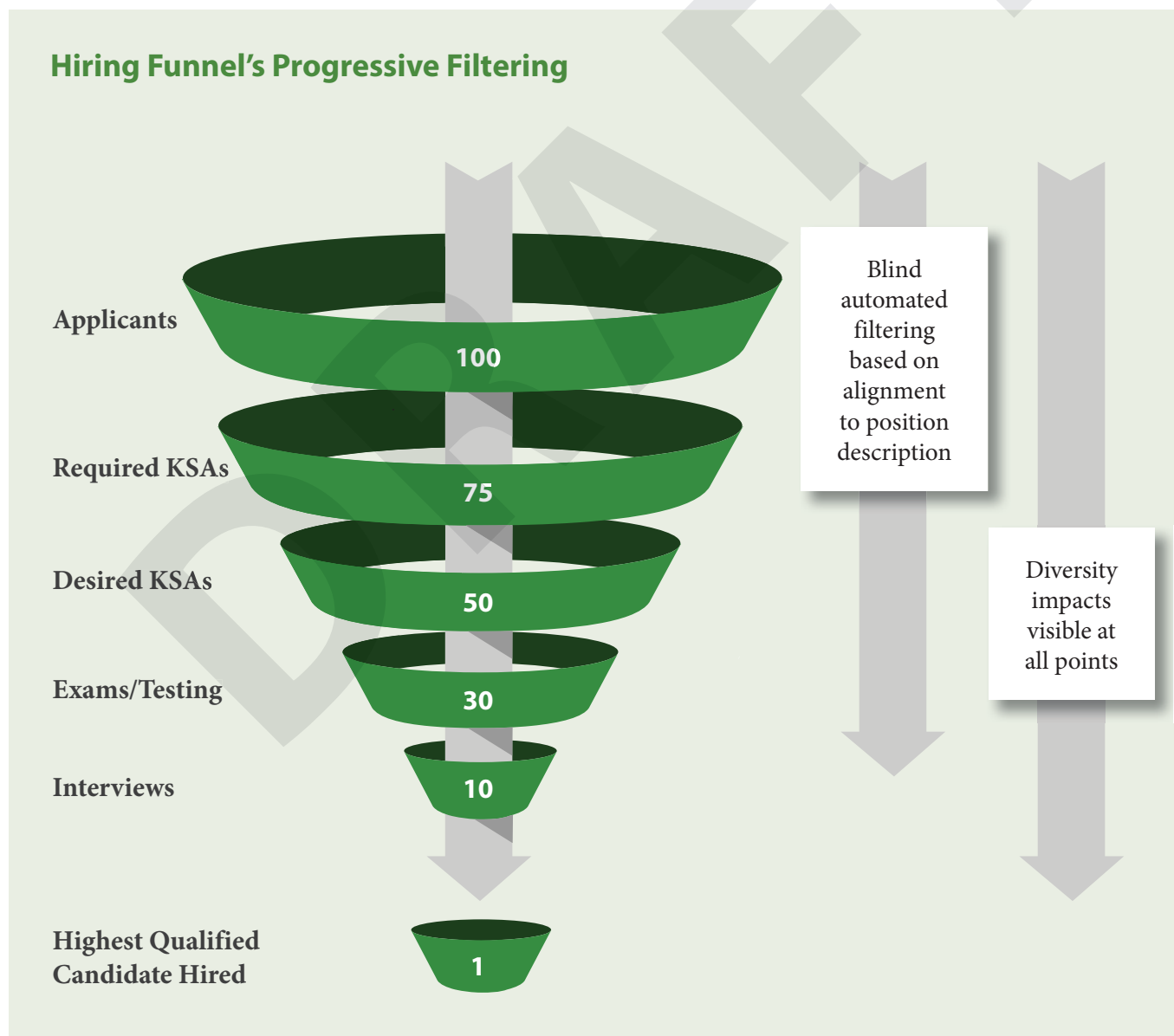


The results of the Tollway's initiative to improve the hiring process achieved substantial improvements across all aspects of the Rutan-covered hiring process. When benchmarked across 1,400 other public sector agencies, the Tollway's Rutan-covered hiring process landed in the highest performing first quartile and represents a best practice.

Throughout the development of the Tollway's Future State Hiring Process the concepts of continuous improvement were reinforced. The diagram on the previous page shows the agreed upon services level for each major milestone in the hiring process.

Effective hiring requires strong partnerships and collaboration throughout the hiring process. Each stakeholder in the hiring process must be aware of their measurable goals, roles and responsibilities, and quality targets to achieve an effective and efficient hiring process outcome.

The diagram below shows many of the major components, which contributed to achieving the hiring performance results achieved. Technology was leveraged to achieve a virtually paperless process with blind quantitative applicant filtering and a verifiably non-political selection process.



The Tollway's Future State Hiring Process was documented in the Rutan-covered hiring toolkit and deployed as a Standard Operating Procedure (SOP). The toolkit is the result of an extensive and highly successful improvement effort. A summary of improvements achieved include:

- 1 Verifiably non-political selection process**
- 2 Transparency throughout**
- 3 Non-biased, quantitative, objective, documented and auditable hiring process from end-to-end**
- 4 Increased position description specificity**
- 5 Expanded access to talented and diverse applicant pools**
- 6 Automated blind candidate filtering**
- 7 Reduction in Tollway resource effort (Human Resources and hiring department)**
- 8 Increased candidate engagement**
- 9 Improved hiring quality**
- 10 In-depth informed interviews**
- 11 Enhanced Standard Operating Procedures (SOP)**
- 12 Developed Service Level Agreements (SLAs)**



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Conflicts of Interest

The Illinois Tollway currently follows all applicable state laws and has continually developed internal policies and procedures regarding conflicts of interests for both Board members as well as employees. At all times Board members and employees are directed to seek guidance from the Tollway Ethics Officer in all situations that could give the appearance of a conflict of interest or impropriety, and in many instances are required to recuse themselves from casting votes or participating in the selection of vendors in instances where it is deemed there is a conflict.

The laws, policies and procedures regarding conflicts of interest are as follows:

Board Members

By-laws – Article VII [see appendix p. 355]

- » Occurs when a Director's personal interest conflicts with the Director's Tollway duties and responsibilities or when a Director participates or seeks to participate in, or influence any Tollway action in which the Director, the Director's spouse or immediate family member living in the Director's residence has a personal interest
- » Must disclose any conflict of interest to Tollway's Ethics Officer within 72 hours following the discovery
- » Must fill out disclosure form and indicate whether they will recuse themselves; disclosure forms are reviewed by the Ethics Officer (and General Counsel and Inspector General, if asked)
- » Late discovery – verbal disclosure at the meeting okay, but must submit disclosure statement within 72 hours

Tollway's Code of Ethics [see appendix p. 365]

A Director must avoid conflicting circumstances of competing fiduciary duties, divided loyalties or personal interests in his or her relationships with the Tollway. A Director's position as an elected or appointed governmental official or a union official does not in itself create a conflict of interest.

Conflicting circumstances may be cured if the Director publicly discloses such conflict and does not participate or vote on the matter causing the conflict. Such disclosure shall be read into and made part of the record of the meeting of the Board. (Section III, a.)

Illinois Procurement Code – Sections 50-13 and 20 [see appendix p. 415]

The Illinois Procurement Code is specific in prohibiting specific individuals from bidding on Illinois Tollway work. See appendix.

Toll Highway Act – Section 28.1 – Pecuniary Interest [see appendix p. 370]

No director or officer of the Authority shall be interested, directly or indirectly, in any contract, agreement, lease, work or business of the Authority, or in the sale of any article whenever the expense, price or consideration of the contract, agreement, lease, work, business or sale is paid by the Authority. No director or officer of the Authority shall be interested, directly or indirectly, in the purchase, sale or lease of any property which (1) belongs to the Authority, (2) is sold, leased or any interest therein is acquired by the Authority, or (3) is sold by virtue of legal process at the suit of the Authority.

Employees

Employees Policies and Procedures Manual –
Chapter 2. Section C. Employment of Relatives [see
appendix p. 417]

The Tollway considers it a conflict of interest for an employee to be within the reporting chain of anyone whose relationship is that of a spouse, fiancé, parent, legal guardian, child, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, step-relative, civil union partner or any other relationships. An Applicant will not receive a preference for employment merely because s/he is the relative or civil union partner of a Tollway employee. In order to avoid such conflicts of interest, the relative, step-relative, or civil union partner of an incumbent employee will not be assigned to serve under direct supervision of his or her relative, step-relative, or civil union partner. The Ethics Officer should be consulted in all work-related issues involving relatives. If through marriage an employee finds themselves in the reporting chain to someone identified above, the employee's reporting structure and status will be re-evaluated. Notice of change of family relationships should be provided to the Chief of Administration.

The Tollway's Code of Ethics requires that current employees must avoid all situations that could give the appearance of a conflict of interest or impropriety. Accordingly, employees are prohibited from supervising a Tollway vendor which employs a spouse, child, parent, brother, sister, grandparent, or grandchild, whether of the whole blood or half blood or by adoption, who shares a common dwelling with the employee. If an employee is uncertain whether they have a supervisory responsibility over the vendor, the employee should contact the Tollway's Ethics Officer to make that determination. All employees must disclose to the Ethics Officer any such relative who is currently employed by a Tollway vendor or any job offer made to such a relative by a Tollway vendor, even if the employee does not have supervisory responsibility over the vendor.

Employees and Board Members

Tollway Code of Ethics Section II and III [see
appendix p. 365]

In general, you should not engage in any activity if such activity will:

- » Create a conflict of interest
- » Results in the employee or director or a relative receiving an economic benefit through or by virtue of any connection with the Tollway
- » Interfere with the proper and effective performance of your duties and responsibilities to the Tollway
- » No employee shall directly participate in, or attempt to influence, any contract negotiations on behalf of the Tollway with any person or entity with whom that employee has an agreement for future employment or other affiliation or is negotiating for future employment
- » All Directors and their relatives shall be prohibited from financially profiting from knowledge and confidential information obtained through his or her position at the Tollway

Summary

The series of Ad Hoc Committee hearings presented an opportunity to hear from internal stakeholders and industry experts on the processes that drive Illinois Tollway operations. The nearly six hours of committee meetings gave an in-depth look into several complex topics including the Qualifications-Based Selection (QBS) process, the Rutan and exempt hiring processes and agency conflict of interest policies.

Tollway Chief Engineering Officer Paul Kovacs and Chief of Procurement John Donato spent more than two hours on a detailed review of the Tollway QBS process, a complex process often mischaracterized as a "no bid" procurement method. Each speaker detailed the steps of the selection process and explained the background behind many of the decision points made throughout a selection.

Additionally, the speakers navigated the entire timeline of the awarding of the General Engineering Consultant (GEC) contract, highlighting the touch points with the Executive Ethics Commission, the Chief Procurement Officer and the Procurement Policy Board on the potential conflicts of interest within that specific contract.

Their presentation was followed by Ed Gower, former Chief Counsel for Illinois Department of Transportation (IDOT). He explained the Illinois state policies that dictate the design and engineering procurement process for both IDOT and the Illinois Tollway. He also explained the similarities and differences between the two agencies' processes. He noted the permanence of the selection committee in the state's administrative rules as well as the similar selection

committee vote that occurs in private as mandated by state law.

He asserted that the Illinois Tollway was following all applicable laws and noted certain policy changes to help with any public perceptions that the process is closed. This sentiment was echoed by Fred Coleman, former professor of engineering at the University of Illinois and frequent community member in both the Illinois Tollway and IDOT QBS Selection Committees. He believed the Tollway does an outstanding job with transparency within the QBS process, and noted that, as a QBS selection member, he does not see the Tier 1 reviews within the IDOT process as he does with the Tollway. He did, however, have several suggestions on how to strengthen components of the process, including providing more historical context on firms for selection committee members.

Speaking to the Tollway's procurement process, Eileen Chin, a contractor with the Tollway who also does extensive work with other agencies, said of the Tollway, "In our experience with QBS here at

the Tollway, this process has been far superior. One is that the information is provided in advance to the industry of upcoming projects." She commended the feedback the Tollway provides to unawarded vendors after a project selection.

Luis Montgomery, another Tollway contractor, echoed

Chin's sentiment saying with other agencies "you submit a proposal, and sometimes it just goes into a black box." He added that at the Tollway, everything is visible.

“In our experience with QBS here at the Tollway, this process has been far superior.”

Eileen Chin, President of RM Chin & Associates

Dave Bender, President of the American Council of Engineering Companies (ACEC), shared his perspective on the QBS process and the Illinois Tollway. "The Tollway without a doubt almost over-communicates with engineering firms and people that do business, as compared to other clients that we have," he said, adding "compared to the others there's no second place."

Mr. Gower returned to a committee meeting to discuss the legal and perception problems when addressing conflicts of interest. He said the biggest item regarding conflicts of interest was the pecuniary interest of any officer or employee of the Tollway in any contract. He defined the legal parameters of financial interest and gave examples of how that law works. He also described the state statute that governs conflicts of interest for contractors, vendors and board members, and provided several recommendations for improvements to the Tollway's conflict of interest policies.

For the third meeting centered on hiring, the Tollway heard from Chief Internal Auditor Cassandra Rouse on the Tollway's current state of hiring. She gave an overview of the extensive improvements made in recent months to the Tollway's hiring model. She also presented recommendations to strengthen transparency and accountability for exempt positions.

The changes implemented, which cut Tollway

hiring times from 10 months to two months, were developed with the help of Kent James of Illuminative Strategies, who testified to the solid practices that have been instituted in recent months.

"I would say the rest of the country could probably learn something from what you're doing here ... When you look at the array of engineering firms that are working currently for the Tollway Authority, it's really stunning."

John Njord, former Utah Department of Transportation Executive Director

Throughout, the Tollway was commended for a demonstrated commitment to transparency, efficiency and thoughtful approach to operating a toll highway system. John Njord, former Utah Department of Transportation asserted, "I would say the rest of the country could probably learn something from what you're doing here." He added, "When you look at the array of engineering firms that are working currently for the Tollway Authority, it's really stunning."

The committee meetings concluded with a commitment by Illinois Tollway Chairman Bob Schillerstrom to report on the information and policies reviewed by the committee with a list of recommendations aimed at strengthening the Tollway's existing policies. A full transcript of the first three committee meetings can be found in the Appendix of this report [see appendix pp. 63-190].

The following are the key findings and recommendations driven by this thorough review of Tollway policies and procedures aimed at strengthening the Illinois Tollway's commitment to transparency and accountability.

Key Findings

Procurement and Transparency

The Illinois Tollway currently follows all applicable procurement regulations, going above and beyond in transparency to both the public and the vendor community.

This includes:

- » All contracts for construction, design and engineering are currently listed on the Illinois Tollway website
- » All invoices for prime and sub contracts are posted online for professional services
- » All pay estimates for construction contracts are posted online

These contracts are handled through the public procurement process as governed by state law. In addition, the Tollway implements some of the most comprehensive vendor and diversity outreach programming of any government agency in Illinois, often going above and beyond in efforts to be transparent with the vendor community, and consistently reviewing statements of interest and submissions with companies to help them understand how they can improve.

Committee Notes on Procurement

The Tollway's Chief Engineering Officer Paul Kovacs and Chief of Procurement John Donato provided a meticulous review of the Tollway procurement policies noting the following:

- » The Illinois Tollway holds an International Standards Organization (ISO) Certification, a certification rare in the transportation industry confirming the Engineering Department's exemplary procedures. The certifications entail voluntary oversight and auditing and was initially sought as the Tollway gradually scaled up to meet the needs of the Congestion-Relief Program and later the *Move Illinois* Program.

- » The Tollway's ability to scale to a project through consultants and engineering firms depends directly on the Qualifications-Based Selection (QBS) Process to facilitate those efforts.
- » While there's a key difference in scope between project-specific engineering firms and foundational engineering firms distinguished by the project specific or systemwide obligations of the contract, both are equally important to the critical operations of the Illinois Tollway and necessitate a qualification based, competitive selection process.
- » QBS is a competitive process – many solicitations receive hundreds of applicants from which to choose.

Dave Bender, the President of the American Council of Engineering Consultants (ACEC), lauded the Illinois Tollway's efforts, noting the Jane Addams Tollway (I-90) "has won several state and national

“The Jane Addams Tollway (I-90) has won several state and national awards for its creativity, innovation, technological advances, safety features, its on-time delivery; all of the complexities involved with the type of that massive, massive project. I think that's a prime example of how QBS works.”

Dave Bender, President of the American Council of Engineering Consultants (ACEC)

awards for its creativity, innovation, technological advances, safety features, its on-time delivery; all of the complexities involved with the type of that massive, massive project." Mr. Bender added, "I think that's a prime example of how QBS works."

Ed Gower, former Chief Legal Council for the Illinois Department of Transportation (IDOT), performed a thorough review of Tollway processes and procedures and asserted the Illinois Tollway was following all applicable laws within the procurement process, as well as existing conflict of interest laws. He also stressed the importance of the QBS process itself by stating, "It's absolutely essential that you get high-quality professional engineering services, from engineers who are qualified to do the work."

This sentiment was echoed by Fred Coleman, former professor of engineering at the University of Illinois and frequent community member in both the Illinois Tollway and IDOT QBS Selection Committees. He believes the Tollway does an outstanding job with transparency within the QBS process.

Both noted, however, several areas of potential improvement:

- » Mr. Gower noted that IDOT has a codified list of selection committee members in the state's administrative rules.
- » Mr. Coleman stated that as a QBS Selection Committee member, he does not see the Tier 1 reviews within the IDOT process as he does with the Tollway. However during the Tollway process, he does not have access to any historical data on firms during the Tier 3 selection and suggested that information would be useful as a standing, outside member of the committee.
- » Also highlighted by Mr. Gower was the idea for certain policy changes to help with any public

perceptions that the process is closed, including the disclosure of QBS Selection Committee members after the close of the process.

However, Mr. Coleman noted on the disclosure of QBS committee members saying, "There was some discussion about the identity of the selection committee members, IDOT does

not publicly distribute those; they are not part of what they announce."

Mr. Coleman's larger assessment of the QBS process was that IDOT has been unchallenged in its process in large part "because, like yours is, a professional engineer-based and run evaluation process."

He also emphasized the importance of the confidentiality of the process itself, saying, "The question has often come up as to why are those committee meetings held in private. And let me say, that from a member of those committees, you often get into discussions about the qualities, capabilities, experience,

expertise, financial issues of some cases with the firms that you are reviewing, that you have reviewed for potential hiring. And it's very, very, important that those conversations are extremely candid, and extremely honest, because you are trying to make sure that you in your role are putting forth the best firm that can do the job within the time frame and the scope that's available."

Mr. Gower also reviewed a component of the Illinois Tollway's General Engineering Consultant contract currently under media scrutiny for a public relations component.

To this Mr. Gower asserted, "As a practical matter, public relations consultants are an essential part of large engineering projects. Because ultimately the success of that project is going to turn, in no small part, on how effectively you reach the public, engage the public, make them aware of what you are doing. Provide an opportunity for public input and

"As a practical matter, public relations consultants are an essential part of large engineering projects. Because ultimately the success of that project is going to turn in no small part on how effectively you reach the public, engage the public, make them aware of what you are doing."

Ed Gower, former Chief Legal Council for the Illinois Department of Transportation (IDOT)

incorporate that into your planning process. And you guys don't have any small projects, most of your projects are pretty good in size. So for individual projects, it is perfectly appropriate, and would be expected, to have the engineering firm select that consultant."

Mr. Gower did, however, make note of the fact the Tollway's General Engineering Consultant (GEC) contract is a non-corridor engineering contract and, while it's appropriate to have communications as a component of that contract, the Illinois Tollway could look at the communications aspect of QBS procurements and the way those are currently structured.

The committee also heard from John Njord, the former Executive Director of the Utah Department of Transportation. He held Illinois' process in high regard, but also noted improvements that could be explored as well.

"You hire consultants for the peaks; you staff just for the medium range work. And what you're doing is very similar to everywhere around the country. Virtually every state in the country has a law similar to the Brooks Act."

John Njord, former Utah Department of Transportation Executive Director

Specifically, he noted his extensive experience in alternative procurement methods with regard to road construction. He explained the differences in hiring engineering teams within an organization and the importance of public/private partnerships as a way to prevent staffing "to the peaks of your work." He noted, "You hire consultants for the peaks; you staff just for the medium range work. And what you're doing is very similar to everywhere around the country." Mr. Njord again explained the Brooks Act and the federal requirement to follow it in the selection of engineering firms, noting, "Virtually every state in the country has a law similar to the Brooks Act."

With regard to recommendations, Mr. Njord noted best practices nationwide show "you don't disclose [the names of QBS] members during the procurement process as a way to prevent interaction between consulting firms and the selection team members. He did recommend, similar to Mr. Gower, releasing the names after the process is complete. Also, there was a recommendation to develop a process for consultants to contact the agency during the process with questions or concerns.

As noted, Mr. Njord suggested several alternative procurement methods he believed the Tollway should consider. These ideas are as follows:

- » Pool Contracting – An effective way to speed up contracting where specialty firms bid on general skill set creating a pool of qualified firms to select from on any given project. Njord compared that to the current process of "bulletin, selection, evaluation, and hiring." He noted it is a great opportunity to do small contacts and it is ideal for minority and emerging firms trying to break into the industry.
- » Design-Build – Under Illinois' current design-bid-build, the Tollway retains a great deal of risk. Under design-build there is an opportunity to transfer risk and further enhance the quality of projects. Under this model, project plans are completed before a project is even bid, compressing the time of a project significantly.

He cited one of the first design-build projects in the nation, in Utah, that was anticipated to be a 12-year \$2 billion project. That project was completed in four years and proved design-build to be a useful tool that the Tollway should consider.

- » A Plus B Bidding – This model factors in time and user costs to any project, injecting impact into the bid grading process. Njord explained if a contractor is clever enough to figure out a way to build a project faster and more efficiently, that would factor into their bid along with price and competency. Chairman Schillerstrom also noted that in tolling it's especially important because customer use is the sole source of revenue, and during a period of construction the negative impact on customers often results in few users.
- » Incentive/Disincentive Bidding – The last

alternative highlighted by Njord was a different way of approaching A Plus B, which is to incentivize early completion and penalize late delivery of projects. This is not a new approach, but one that is still viable.

Also, submitted was a letter for consideration to the Ad Hoc Committee, Rich Raczynski, former Chief Engineer of the New Jersey Turnpike Authority [see appendix p. 513]. He stated, "Having review the Illinois Tollway QBS procedure and related documentation and the Chief Engineer Officer presentation to the Ad-Hoc Committee, I conclude that the Illinois Tollway is following proper QBS procedures, following industry standard."

Conflicts

For all professional engineering services and construction contracts, potential conflicts of interest disclosed by firms are submitted, reviewed and forwarded to the Chief Procurement Officer (CPO) for approval when concerns are raised. This requirement is applicable to every contractor and subcontractor valued at \$50 thousand or more annually, as well as consultant and subconsultants.

Additionally, members of any QBS Selection Committee are required per Tollway procedures to fill out a confidentiality and conflict of interest agreement that requires members of any Professional Services Bulletin (PSB) Selection Committee to recuse themselves from scoring submissions under the following circumstances:

- » Any situation in which a conflict of interest or bias is present or may reasonably be inferred.
- » Any situation that involves a member's spouse or immediate family member who is living with the member, or a firm the member has worked for as an employee or a principle in the past one year.
- » Any situation in which the information used to prepare the Professional Services Bulletin (PSB), the information contained in the responses to the PSB and all information pertaining to the selection and negotiation of the final contract could be used for the member's actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- » Any other situation that would result in a

violation of the Tollway Policy and Procedure Manual.

Further, Tollway by-laws require members of the Tollway Board of Directors to adhere to the state's Statement of Economic Interest and ethics training requirements and require Board members to fully review each and every agenda item and consult with the Tollway Ethics Officer or a personal attorney in instances where a potential conflict of interest arises.

All design and engineering projects are competitively procured through the legally mandated QBS process, a process used in 46 states, as well as by IDOT, as mandated and outlined in the state's own QBS Act. The Tollway follows the Joint Committee on Administrative Rules (JCAR), as well as the International Organization for Standardization (ISO) procedures.

The Tollway does not hire subcontractors or subconsultants. It is the standard that prime contractors and consultants assemble teams to include firms that complement their skill set and meet Tollway goals, including minority and disadvantaged firms. In many cases, prime consultants are regional or global construction and engineering firms with a full complement of local subconsultants to round out their teams.

Senate Hearing on Procurement

During the Senate Transportation Committee hearing on Tollway procurement, a representative of the Illinois Chief Procurement Office (CPO) for General Services testified that the selection of engineers to design roads falls under the state's QBS process [see appendix p. 514]. They outlined what they believe to be their jurisdiction over that process, which includes the review and processing of financial and conflict of interest disclosure.

They specifically noted the disclosures for the communications subcontractor to the Illinois Tollway's GEC, which was highlighted in the media due to the principle's marriage to an Illinois State Representative were submitted to their office. The office concluded this was "not a prohibited conflict according to a legal opinion by the Legislative Inspector General in 2013."

The CPO's office also noted that another contract, highlighted in media reports, for the Corridor

Construction Management (CCM) for the Central Tri-State Tollway (I-294) Project, which was awarded to Omega & Associates, underwent a financial and disclosure review as well, by both the Tollway and CPO's office. They noted in this case that "the relationship between members of the Tollway board are not required by law to be disclosed."

The CPO did, however, state their opinion that they lack the authority to oversee procurement governed by the QBS act, and their oversight was limited to the posting of the public bulletin and the review of conflict of interest disclosures.

Committee Hearing on Procurement

Mr. Gower returned to the Ad Hoc Committee to review the conflict of interest procedures for the Illinois Tollway. He previously agreed with the CPO's assessment that they lacked authority over the QBS Process, but went on to review the CPO's oversight on conflict of interest.

He also added that no members of the Tollway Board have contracts with the Tollway. He did note that the CPO for General Services, which has oversight over the Tollway, has expanded statutory prohibitions over contracts with the state in instances where a member of the state agency's governing board is directly or indirectly interested, including family members. His interpretation is that extends to subcontracts as well.

Mr. Gower noted the extensive nature of the disclosure forms of those contractors and consultants that do business with the State of Illinois and the Illinois Tollway. He said these disclosures extend to not only the company itself, but also anyone with a 7.5 percent financial interest in the company as well.

General Engineering Consultant (GEC) Contract

Throughout the hearing, the Tollway's foundational GEC contract, which contains a communications component being fulfilled by a subconsultant, was reviewed and addressed.

The Tollway staff presentation by Mr. Kovacs and Mr. Donato exhaustively reviewed the timeline of the contract and the extensive points of oversight throughout the process. It highlighted the fact that not only did the Tollway follow its own conflict of interest policies, but in the instance of the Morreale contract, the Tollway had multiple levels of oversight and approval.

- » During the presentation, Illinois Tollway Director Craig Johnson asked Mr. Donato about the GEC contract, "So it's been challenged before," he asked. "It's gone through before, that kind of scenario, and everything that the Tollway did on that one follows state statute and past practices?" Mr. Donato confirmed, "That's exactly what I am saying."
- » As stated by Mr. Donato, "So the independent SPO reviewed it, sent it to the CPO's office in Springfield. That was reviewed and then sent to another independent agency, the Procurement Policy Board."
- » He also confirmed the potential conflict was disclosed as required and the services provided are industry standard.

Tollway Director Brad Stephens asked, "Is any of this published in any public type of medium that these conflicts were raised before the contract was written and signed?" Mr. Donato affirmed that there is a state-side portion of the procurement bulletin where these conflicts are identified and approved, but there is not a public component of that website.

Director Stephens suggested the Tollway could make these conflicts known at the time the contracts are awarded. Director Johnson concurred that this information should be public.

Mr. Kovacs noted with a large number of firms doing business with the Tollway, conflicts of interest is a common occurrence that is dealt with professionally each and every day.

- » With 330 firms doing business with the Tollway, conflicts are a common occurrence and are always dealt with according to the law and Tollway procedures.
- » Since the beginning of the *Move Illinois* Program, 233 engineering contracts worth \$1.8 billion have been awarded.
- » This work has gone to more than 140 prime firms and more than 310 unique subconsultants.

"And these services have not gone to one particular firm; they have been widely distributed to take advantage of the full strength and capacity of the consultant and contracting community, especially in this region. So I think staff has done a great job in

evaluating all of those statement of interest that went along with all those bulletins, and we've obviously availed ourselves of probably the best services we can get here," Mr. Kovacs said.

Mr. Njord in his presentation also noted that he was "unaware of anywhere else that has this outside procurement agency that determines whether or not there's a conflict of interest." He believes we have best practices in Illinois and the Tollway should rely upon those practices.

Mr. Gower reaffirmed that the communications component to the GEC contract followed the procedure in Section 50-20 of the procurement code as stated in 50-30, and this exemption requires the oversight of the CPO in addition to a hearing. The disclosures, which clearly indicated a relationship with an elected official, were made in the conflict of interest forms he said adding, "It was submitted to the CPO's office, and the Chief Procurement Officer for General Services, and she submitted it to the Procurement Policy Board for review. And the Procurement Policy Board is the one who said it's not a conflict under the code, and that subcontract is permissible."

Board Conflicts

One prominent issue noted was Board members' perception of what issues constitute a conflict. He recommended the Board consider providing more guidance to Board members with regard to conflicts. Mr. Gower also recommended a subcommittee of the board that works with counsel to come up with proposed revisions to the entire Board for review.

Regarding a handful of other reported conflicts Mr. Gower noted, "There were recusals that had occurred, but somehow they never made it into all the newspaper articles that were written about that particular selection."

He suggested staff advance a list of contracts even further than currently afforded to Board members and require timely conflict disclosures and prearranged recusal letters to protect the Tollway. He also noted there are few laws in Illinois surrounding conflicts on charitable organizations and suggested the Tollway take a look at these issues as well with regard to Board member participation.

"There were recusals that had occurred, but somehow they never made it into all the newspaper articles that were written about that particular selection."

Ed Gower, former Chief Legal Council for the Illinois Department of Transportation (IDOT)

Hiring

Out of nearly 1,400 employees, only 83 positions are exempt and not covered by the strict Rutan hiring guidelines. The process for those exempt positions, as with other state agencies, are at the discretion of the agency itself. Within the past few months, the Tollway has looked to strengthen those procedures to increase competition, decrease bias and speed up the process.

In addition, for all positions the Illinois Tollway has decreased the timeline on hiring significantly thus improving the candidate pool and decreasing bias within the process. During the Ad Hoc Committee hearing, the Tollway invited Kent James, Executive Director of Illuminative Strategies, to provide an overview of the hiring reforms the Tollway began in 2017 for specifically the Rutan-covered hiring process.

Several key takeaways regarding the Tollway's hiring practices:

- » Nearly 95 percent of employees at the Tollway are Rutan-covered and hired through a strict, prescribed hiring process.
- » Most recent, these changes resulted in a reduction in hiring cycle from 10 months to two months.
- » This process improvement involved personnel from Internal Audit, Legal, EEO/ADA, hiring managers and applicants themselves.
- » Through these changes the Illinois Tollway now has the fastest hiring process for Rutan-covered employees in the State of Illinois.

In addition to an autonomous Inspector General assigned solely to the Illinois Tollway, the agency also has a Chief of Internal Audit tasked with the ongoing

review of Tollway operations. Cassaundra Rouse, the Tollway's Chief of Internal Audit presented further information regarding hiring activities, as well as a set of extensive recommendations to strengthen that process. Her department routinely audits Tollway hiring activities, as well Administration operations, and was integral in overhauling the Rutan-covered process.

She reviewed the current state hiring process for exempt employees and did note several areas of potential improvement to strengthen and add consistency to the process. Currently, it is at the discretion of the Chief of Administration to determine if a position will be filled through an internal or external recruitment process, or if there is a critical leadership role that needs to be filled in an expedited manner.

Ms. Rouse suggested taking a hard look at enhancing job descriptions to more accurately reflect the positions being filled, a process that began in April of 2018. She also recommended the Tollway needed to solidify the documentation of the hiring process with regard to exempt hiring "to ensure transparency over the process, and to ensure that all position hiring in the exempt status are handled in the same way."

To this end, it was recommended the Tollway further solidify the data points and paperwork retained during the Rutan hiring process, and that the Tollway post all positions on the Tollway website, regardless of status.

In addition, a series of questions aimed at flagging potential conflicts within the hiring process were also recommended, instructing Administration staff to solicit further questions and disclosure from future employees.

Recommendations

The Ad Hoc Committee provided a public forum for an exhaustive review of the complex policies and laws that guide Tollway Operations, and provided an opportunity for staff, leadership and stakeholders to take a hard look at ways to improve on the Tollway's strong commitment to transparency and accountability.

Based on the thorough evaluations and sound recommendations of Ad Hoc Committee participants, as well as a comprehensive internal review by the Tollway staff, the following is a package of recommendations from Illinois Tollway Chairman Bob Schillerstrom and Executive Director Liz Gorman to be considered. They include an array potential changes to internal policy and, where applicable, suggested changes to Illinois state statute and administrative rules.

Procurement

Disclose QBS Selection Committee members after the close of a procurement

Upon the close of a procurement, it is recommended that the identities of members of the Qualifications-Based Selection (QBS) selection committee be made available on the Illinois Tollway website. Specifically, upon the execution of the final contract of any given PSB, members of that QBS selection committee will be appended to the previously posted PSB bulletin within the procurement portion of the Illinois Tollway website.

Make available contractor and subcontractor conflict of interest disclosure forms

It is recommended the Tollway make available for inspection conflict of interest disclosure forms at the Tollway Headquarters without the necessity of a Freedom of Information Act (FOIA) request through an appointment with the Tollway ethics officer. These documents are currently available only through a FOIA request.

Procurement letter to State Purchasing Officer (SPO)/Chief Procurement Officer (CPO) requesting reinstatement of oversight on QBS process

It is recommended the Illinois Tollway submit a letter to the State of Illinois Chief Procurement Officer (CPO) for General Services requesting a clearly defined reinstatement of jurisdiction over the QBS process, including definitions of oversight over QBS contractual obligations as well as the current review and public posting of conflict of interest documentation.

Identify selection committee members in Joint Committee on Administrative Rules (JCAR) by title or position

The Illinois Tollway will recommend language to JCAR defining committee positions within the Illinois Tollway QBS selection process. Currently, the Joint Committee on Administrative Rules is silent with regard to selection committee members for the Illinois Tollway's mandated QBS Process. By comparison, QBS selection positions within the Illinois Department of Transportation (IDOT) are positions prescribed in JCAR. The Illinois Tollway will seek to create a similar, parallel structure for these selection committees.

Disallow board members from serving on selection committees within International Standards Organization (ISO) procedure

Based on multiple recommendations, the Illinois Tollway should formalize internally, and seek to codify via the previously mentioned JCAR rules, a prohibition (or omission) of Tollway Board members from sitting on a selection committee.

Draft legislation to incorporate more alternative design and delivery methods

While constantly striving to deliver roads faster and better, the Illinois Tollway will continue to seek through legislation programs aimed at bringing proven and effective alternative delivery methods including design-build delivery to the Illinois Tollway.

Enhance staff conflict of interest procedure for upcoming Professional Services Bulletins (PSB's), disallow staff with conflicts from serving on QBS selection committees

The Illinois Tollway will look to update the ISO procedures that govern the QBS selection process recommending a prohibition of staff serving on an entire QBS selection committee when a known conflict of interest exists with any individual component of a PSB. Currently, the Illinois Tollway has a clearly defined conflict of interest and recusal process for QBS selection committee members on individual selections; however, it is recommending strengthening this by implementing a prohibition from serving on the entire PSB's QBS selection committee in the event of any individual conflict within that PSB.

Maintain selection results database and provide a summary of prior consultant evaluations

Develop a selection committee results database to better inform selection committee members as to the performance history of any given firm or team within the selection process.

Modify ISO procedure for both 3100 and 3100B to guide scoping of communications services as related to QBS procurement

It is recommended that the Illinois Tollway require a clearly defined scope for corridor projects limited to specified planning and project-specific communication and outreach activities. Further, the

scope for foundational contracts should concurrently be limited to program development, implementation support, project development support, and internal Tollway communications as well as communication needs closely aligned with the scope of the underlying professional services.

Conflicts

Provide Board members an extended preview of upcoming contracts with a timely conflict of interest notification for Tollway review

It is recommended the Illinois Tollway strengthen the requirements for Board member conflicts by extending the preview period for upcoming votes while requiring a timely submission and review of potential conflicts by Tollway staff and legal counsel. When feasible, Illinois Tollway staff should provide Board members the prime vendor list two weeks in advance with a requirement that members submit potential conflicts to the ethics officer within 72 hours of receiving the packet, or state there is not a conflict.

Draft legislation to provide outside legal and ethical counsel to Board Chairman and members

Given the potential conflicts that may arise if Tollway legal counsel serves as both representatives of the Illinois Tollway in addition to Tollway Board members, the Tollway will seek authority to obtain contractual representation of Board members to serve in the event of conflicts of interest or other issues that may arise from their official duties.

Create a conflict of interest committee

It is recommended that a committee be created to review unresolved conflict of interest disclosures. The committee will include the Ethics Officer, a representative from Legal, the Chief Internal Auditor, and/or outside legal representative of the Board.

Develop enhanced Tollway Board conflict of interest definitions

Enhanced definitions should be developed and applied to better guide the current conflict of interest disclosure forms and requirements. This should include newly defined categories for conflicts including professional, personal or political. These categories should be used as general definitions for public disclosure when conflicts arise.

Require Board members to publicly disclose conflicts

With the ability to leverage general conflict definitions, Illinois Tollway Board members will be required to publicly disclose at the meeting if they have a conflict of interest as it relates to a specific item in a manner prescribed by new recommended procedures. Currently, Tollway Board members have a process to recuse themselves from votes and participation in discussions, but it is recommended these recusals come with a generally categorized statement regarding their conflict.

Public posting of Board member statements of economic interest

Board member statements of economic interest should be made readily available to the public via the Illinois Tollway website in addition to their existing availability through the Illinois Secretary of State's Office.

Provide annual conflict of interest training to Board members and QBS selection committee members

The Tollway will develop an annual conflict of interest training to supplement the state of Illinois' existing ethics training that will focus on any new and additional conflict and disclosure requirements as well as address questions and concerns.

Hiring

Enhance job descriptions

The Tollway has already commenced a thorough review of all job descriptions to ensure the effectiveness and accuracy of the positions. This began in June 2018 and will remain a continuous process.

Strengthen and enhance standard operating procedure and documentation for exempt positions

The Tollway will strengthen and enhance the required documentation and standard operating procedures for the exempt hiring process to ensure an open, fair and transparent process.

Continuation of the annual internal audit of exempt hires

The Illinois Tollway will continue the annual internal audit of exempt hires as it has been traditionally done to date.

Create employee conflict of interest questionnaire

The Illinois Tollway has developed and will look to implement supplemental questioning for all new hires and employees who receive a change in employment status that incorporates a standardized questionnaire aimed at identifying known conflicts of interest. This includes questions regarding known family relationships to any and all of the following:

- » Elected officials in Illinois at any level
- » Government official in any capacity
- » Any Tollway employees
- » Any companies with Tollway contracts

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THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

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TOLLWAY AD HOC OPERATIONS
REVIEW COMMITTEE

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TRANSCRIPTION OF DIGITAL MEDIA

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Tollway Headquarters
2700 Ogden Avenue
Downers Grove, IL 60515

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Wednesday, August 15, 2018
9:45 a.m.

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PRESENT:

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Bob Schillerstrom, Chairman
Elizabeth Gorman, Executive Director
Neli Vazquez Rowland, Director
Bradley Stephens, Director
Craig Johnson, Director
Corey Brooks, Director

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Transcribed by: Cynthia Cancel Sobolewski
CSR No. 084-003543

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MEETING, on 08/15/2018

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<p>1 CHAIRMAN SCHILLERSTROM: Call the meeting to 2 order. 3 We will dispense with the Pledge, as 4 we have recently done it today. 5 And, Madam Clerk, would you call 6 the roll for the Tollway Ad Hoc Operations Review 7 Committee, please. 8 CLERK: Director Banks. 9 (No response.) 10 Director Brooks. 11 DIRECTOR BROOKS: Here. 12 CLERK: Director Johnson. 13 DIRECTOR JOHNSON: Here. 14 CLERK: Director Stephens. 15 DIRECTOR STEPHENS: Here. 16 CLERK: Chairman Schillerstrom. 17 CHAIRMAN SCHILLERSTROM: Here. 18 CLERK: Mr. Chairman, we have a quorum. 19 CHAIRMAN SCHILLERSTROM: Very well. 20 We will now see if there's any 21 public comment. I don't think, Madam Clerk, if we 22 have any cards. Do we? 23 CLERK: Any cards? 24 CHAIRMAN SCHILLERSTROM: If there's anyone</p>	<p>1 will better serve the public, better serve our 2 customers, make us more transparent, and make us 3 more operationally efficient. 4 So essentially that's what the goal 5 of this Committee is. I am very open to having 6 this be sort of a conversational approach, not to 7 constrain. We will follow Robert's Rules of Order, 8 just from an organizational point of view. But the 9 bottom line is we want to hear from the directors. 10 We want you to ask questions. This is sort of a 11 unique opportunity to take a look at -- initially 12 at our operations and learn how we do things. 13 And we all know sort of how things 14 are done, but maybe there's little gaps that we 15 don't understand why they're done that particular 16 way. And at least our goal at this first meeting 17 is to sort of take a look at our operations and 18 have some situational awareness of how we do things, 19 why we do things, and perhaps why we don't do other 20 things. 21 So I'm hopeful that we can come up 22 with some conclusions in three meetings. I will 23 tell you this: If you think that we need to have 24 more time to really do a good job here, we can take</p>
Page 3	Page 5
<p>1 here who would like to speak to us on any issue, 2 now is the time for public comment. We're anxious 3 to hear what anybody has to say, but it doesn't 4 look like -- did you hold your hand up? Do you 5 want to speak? 6 It doesn't look like anybody wishes 7 to speak to us, so we will move on. 8 So I want to thank you all for 9 coming, both our speakers -- both our internal 10 speakers and our external speakers for coming 11 today. 12 I want to thank the members of the 13 Committee and the staff for being here and for also 14 helping to put this together. 15 What we want to do is take a look 16 at various Tollway operations. I firmly believe 17 that -- and others agree with me -- that we follow 18 the law on all aspects of everything that we do. 19 And I think that if we didn't, we have a very able 20 staff and attorneys and others who would be 21 pointing that out to us. 22 But having said that, I think that 23 there are opportunities always for us to look at 24 better practices and ways of doing things that</p>	<p>1 more time. Obviously you don't want these things 2 to drag on forever, so I will try and push things 3 along. But I recognize the fact that if we get 4 into an area where we think that we have some 5 opportunities to learn more, to make some really 6 positive changes, we're more than willing to put in 7 the additional time. 8 From -- the initial plan is to have 9 three meetings, probably over the next three-week 10 period. Today's meeting, we want to take a look at 11 sort of our Tollway procurement. 12 We're going to have some of our 13 staff speak to us, Chief Engineer Kovacs and Chief 14 Procurement Officer Donato. And then we're going 15 to have two individuals who are very familiar with 16 transportation, they're familiar with our 17 operations, and they're familiar with other 18 operations. 19 Mr. Ed Gower, who does not work for 20 the Tollway. He was Chief Counsel for IDOT for 21 well over a decade, so he understands the laws, he 22 understands transportation. He's an attorney, 23 he's in the private practice of law, and will be 24 rendering some opinions to us as to how we do</p>

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MEETING, on 08/15/2018

<p style="text-align: right;">Page 6</p> <p>1 things and maybe some changes that can be made. 2 And I'm also more than interested in listening to 3 any changes that can be made from our staff. So 4 we'll be doing that. 5 And then we also have the opportunity 6 to hear from Mr. Fred Coleman, who also does not 7 work for the Tollway, but has been active on some 8 of our selection committees as an outsider. He has 9 30 years of experience in the engineering industry. 10 He is retired from the University of Illinois where 11 he taught. 12 And we're very happy to have these 13 two gentlemen come and take a look at what we do 14 and impart knowledge to us. 15 So if -- before I ask -- I'm going 16 to ask Paul to speak first. 17 Is there any questions from the 18 Committee or any concerns or any opinions that 19 would like to be rendered? 20 I guess I neglected to say at our 21 second meeting we're sort of tentatively looking 22 at a little bit more information and discussion 23 about our consultant selection, and then also the 24 importance of diversity and how that fits into what</p> <p style="text-align: right;">Page 7</p> <p>1 we do, and then also our conflict of interest 2 policy. 3 And then in our last meeting we were 4 contemplating taking a look at some of our hiring 5 process. That's just sort of broad brush at this 6 point and, as I said, depending on how things go, 7 potentially subject to change. 8 DIRECTOR JOHNSON: Mr. Chairman? 9 CHAIRMAN SCHILLERSTROM: Yes? Go ahead. 10 DIRECTOR JOHNSON: As far as meeting schedule, 11 is that something we can discuss now, or you want 12 to discuss later? 13 CHAIRMAN SCHILLERSTROM: I think it's one of 14 those things that we can probably -- unless there's 15 a desire, we can discuss it not here, and discuss 16 it privately. But if you want to discuss it, we 17 can. 18 DIRECTOR JOHNSON: Well, just my quick 19 question. I know you're thinking about having a 20 meeting next Wednesday. We have a board meeting 21 next Thursday. From looking at the agenda on the 22 FAO, it does not look like a very intense meeting 23 or a lot of items to be addressed. 24 Am I right, Paul, on that?</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. KOVACS: We have a meeting. We have four 2 items. 3 DIRECTOR JOHNSON: Yeah. So my thought is, 4 since we're all going to be here for the board 5 meeting, could the Committee meeting take place 6 after that meeting since we're all -- instead of 7 doing two days in a row. 8 Well, I know Mr. -- Director Dotson, 9 like today I felt bad for him. He flew all the way 10 in from Rockford for 15 minutes, and he's going to 11 drive here tomorrow probably for a 10-minute FAO. 12 I said to him, I said, "Director, why don't you -- 13 we could have done it all in one day." You know, 14 for people's travels, things like that. 15 So my only thought was seeing the 16 potential agenda for next week Board of Directors, 17 instead of meeting Wednesday and Thursday, could it 18 possibly be open to just do it on Thursday morning. 19 CHAIRMAN SCHILLERSTROM: You mean make more 20 common sense? 21 DIRECTOR JOHNSON: I'm not going to say that. 22 CHAIRMAN SCHILLERSTROM: Yeah, we'll take a 23 look at that. Obviously it's important to get as 24 many members of the Committee here as possible. We</p> <p style="text-align: right;">Page 9</p> <p>1 will definitely look at that. 2 DIRECTOR JOHNSON: Thank you. 3 CHAIRMAN SCHILLERSTROM: Maybe we should look 4 at that and see if we can make that happen. 5 All righty. Anything else? 6 All righty. Paul -- 7 MR. KOVACS: Yes, sir. 8 CHAIRMAN SCHILLERSTROM: I guess I don't need 9 to introduce you. But you've been our Chief 10 Engineer for well -- almost a decade, right? 11 MR. KOVACS: A decade. Since 1990 -- since 12 2007. I've been at the Tollway since '99, 1999. 13 CHAIRMAN SCHILLERSTROM: Okay. All right. 14 Well, the floor is yours. 15 MR. KOVACS: Do we do the pre- -- up there? 16 VOICE: From here is fine I think. 17 CHIEF SCHILLERSTROM: Wherever you're 18 comfortable. 19 VOICE: Wherever. It's up to you, but ... 20 CHAIRMAN SCHILLERSTROM: I guess one thing I 21 would say is, you know, sometimes when people are 22 appointed to a board or come into an organization, 23 the people who have been there for a while presume, 24 hey, everybody knows as much as I do.</p>
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<p>Page 10</p> <p>1 Feel free to talk down to us, you 2 know. Explain. Explain things. I mean, I think 3 this is a good opportunity really to explain why 4 we do certain things, even as broad as to why we 5 hire consultants.</p> <p>6 You know, I think, you know, the 7 average man on the street may just think that when 8 the Tollway operates and builds things, it's just 9 our employees that do that, and why do they hire, 10 you know, these people that they pay millions and 11 millions of dollars to.</p> <p>12 And my understanding is that, you 13 know, in some of these areas we don't have the 14 expertise and we certainly don't have the manpower.</p> <p>15 So don't be shy about, you know, 16 filling in the blanks and presuming that maybe we 17 don't know everything. And certainly, you know, 18 the man on the street doesn't, and some of the 19 people who are going to be watching this.</p> <p>20 So the floors is yours.</p> <p>21 MR. KOVACS: Thank you. Thank you, Chairman 22 and good morning, Directors.</p> <p>23 I'm looking forward to this. I 24 think that was a fantastic introduction. My goal</p>	<p>Page 12</p> <p>1 qualifications, then price.</p> <p>2 We actually have this process and 3 are required to follow this process because it's 4 dictated to us by federal and state law. And in 5 addition, the Tollway has, like, taken that a step 6 further. We actually have written down how the 7 Tollway actually incorporates it here at the 8 Tollway, and it spells out like the responsibilities 9 of the different people who are involved in it and 10 what they're supposed to do and then the time 11 periods in which they're supposed to do it. So we 12 have that for us.</p> <p>13 That process that we developed, 14 it's part of the our ISO certification. Engineering 15 has an ISO certification. So we actually have 16 audits -- we have had audits on that both internally 17 and from the state's external auditor.</p> <p>18 CHAIRMAN SCHILLERSTROM: What is ISO? What 19 does it stand for and --</p> <p>20 MR. KOVACS: So it's the International 21 Standards Organization.</p> <p>22 DIRECTOR JOHNSON: So that's -- okay. I was 23 thinking of Insurance Services Offices.</p> <p>24 MR. KOVACS: No.</p>
<p>Page 11</p> <p>1 is to provide you with information, and certainly 2 I'm willing and open to listening to any questions 3 or suggestions that you have for making our process 4 better. But I'm very familiar with it, and I 5 believe I can get you -- give you a really good 6 base understanding of how this particular process 7 at the Tollway is working right now.</p> <p>8 So I'm going to give you this 9 overview. It's primarily focused on how we select 10 professional services, engineering services 11 specifically. And you all should know that it's 12 different from how we do construction contracts and 13 it's different from how we do goods and services. 14 So there's a distinction there.</p> <p>15 The most important thing is it's 16 really a two-step process. And the first step is 17 focused primarily on finding out who is most 18 qualified to do the work for us. And then the 19 second step, which is completely independent, is 20 the actual discussion of price.</p> <p>21 So on construction contracts we 22 always advertise them and select them based on 23 lowest response of a responsible bidder. In the 24 professional engineering selections, it's first</p>	<p>Page 13</p> <p>1 DIRECTOR JOHNSON: No, in insurance industry, 2 that's what I live by, ISO. I know -- thank you. 3 Because I was thinking the same thing.</p> <p>4 MR. KOVACS: In very simple terms is you're 5 an organization that's willing to write down how 6 you want things done and then get audited against 7 that. And it's designed -- it's designed to give 8 you opportunities to improve your process over 9 time. So it's based on continuous improvement and 10 customer satisfaction.</p> <p>11 So it's a whole system of standards 12 that have been set up. It was created, I believe, 13 for primarily the manufacturing industry, and there 14 is -- it has now grown and I believe we're one of 15 the only transportation agencies, engineering, that 16 has ISO certification like this. I believe IDOT 17 pursued it -- has pursued it also.</p> <p>18 But it's basically do what you say, 19 say what do you, and then prove it.</p> <p>20 CHAIRMAN SCHILLERSTROM: So it's best 21 practices. It's not a law or a regulation that we 22 have to follow, but it's an impartial entity that 23 is familiar with our industry that has come up with 24 these best practices, and we follow them.</p>

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<p style="text-align: right;">Page 14</p> <p>1 MR. KOVACS: Correct.</p> <p>2 CHAIRMAN SCHILLERSTROM: Voluntarily.</p> <p>3 MR. KOVACS: And we believe it is recognized</p> <p>4 by bonding agencies and outside parties. You know,</p> <p>5 once they see that you have something like that,</p> <p>6 they understand what that means and hopefully gets</p> <p>7 us better, you know, pricing on those aspects of</p> <p>8 our ...</p> <p>9 DIRECTOR JOHNSON: Now, you said you're the</p> <p>10 only one that has it? You say you're the only one</p> <p>11 in the state of Illinois?</p> <p>12 MR. KOVACS: No. We were one of the first</p> <p>13 transportation agencies to get it.</p> <p>14 DIRECTOR JOHNSON: In the country?</p> <p>15 MR. KOVACS: I believe so. And we got it a</p> <p>16 while ago. It started about -- I don't know the</p> <p>17 exact date. I'm going to say 2005.</p> <p>18 DIRECTOR VAZQUEZ ROWLAND: I have a question.</p> <p>19 For the two-step process that you</p> <p>20 mentioned, you seek the most qualified and the</p> <p>21 price independent of each other. What does that</p> <p>22 mean? Does that mean that there's two different</p> <p>23 selection teams?</p> <p>24 MR. KOVACS: So I will go through that.</p>	<p style="text-align: right;">Page 16</p> <p>1 so that when people got added in to help with the</p> <p>2 program, they would understand how we wanted things</p> <p>3 to be done. So it wasn't just going to be me</p> <p>4 explaining it to one person and then one person</p> <p>5 explaining to another person. It was, you know,</p> <p>6 let's set up the standards for everybody.</p> <p>7 So this process that we have, as I</p> <p>8 mentioned, you know, we've audited internally and</p> <p>9 externally. We've also had a lot of input from</p> <p>10 Procurement and also from our legal people. And I</p> <p>11 coordinated it with engineering industry and</p> <p>12 actually got their input on it before we</p> <p>13 implemented it. So it wasn't created in a closed</p> <p>14 environment. We were -- we've been very deliberate</p> <p>15 about it. We've definitely worked to try to get</p> <p>16 input from all these sources.</p> <p>17 John's going to get to talk about</p> <p>18 one slide at the very end, so he's going to</p> <p>19 actually go through an example of one of the items</p> <p>20 and also indicate, like, how we coordinate this</p> <p>21 process with our Executive Ethics Commission, which</p> <p>22 is a completely independent state department that,</p> <p>23 you know, is also involved.</p> <p>24 CHAIRMAN SCHILLERSTROM: Can I ask you just</p>
<p style="text-align: right;">Page 15</p> <p>1 DIRECTOR VAZQUEZ ROWLAND: Oh, okay.</p> <p>2 MR. KOVACS: I have only five slides.</p> <p>3 DIRECTOR VAZQUEZ ROWLAND: Oh, okay.</p> <p>4 MR. KOVACS: But we are going to cover that.</p> <p>5 And I promise you if we don't, I'll be more than</p> <p>6 happy to address that question.</p> <p>7 DIRECTOR VAZQUEZ ROWLAND: Okay.</p> <p>8 MR. KOVACS: And I think that one of the</p> <p>9 reasons or catalysts for creating the ISO procedure</p> <p>10 was when we had our first big capital program, the</p> <p>11 Congestion-Relief Program, that was a \$6 billion</p> <p>12 program. You know, before 2005 or so, we had done</p> <p>13 about \$200 million a year in capital improvements,</p> <p>14 which is a volume, you know, we were used to</p> <p>15 handling. We had -- you know, most of the -- it</p> <p>16 was primarily just to keep our system in good shape,</p> <p>17 and we were doing the minimal repairs.</p> <p>18 With the introduction of the</p> <p>19 Congestion-Relief Program where we converted to</p> <p>20 open-road tolling and we started to rebuild our</p> <p>21 system, we jumped to like a billion dollars' worth</p> <p>22 a year.</p> <p>23 So we knew we were growing, and we</p> <p>24 wanted to have some standards and systems in place</p>	<p style="text-align: right;">Page 17</p> <p>1 sort of a general foundational question? And you</p> <p>2 sort of touched on it. You said that before the</p> <p>3 Congestion-Relief Program, which was in 2005,</p> <p>4 essentially, historically the Tollway had -- the</p> <p>5 system was in place, and it wasn't really growing,</p> <p>6 and that \$200 million was essentially maintenance</p> <p>7 money, you know, so -- and, generally speaking,</p> <p>8 in those days was much more of our work, that</p> <p>9 200 million, or maybe, putting it another way, if</p> <p>10 we didn't use as many consultants or as many</p> <p>11 engineering firms, we did a little bit more of the</p> <p>12 percentage of stuff we did in-house.</p> <p>13 MR. KOVACS: I believe the Tollway has always</p> <p>14 leveraged a limited amount of engineering staff</p> <p>15 with help from consultants. But you are absolutely</p> <p>16 correct, if you're only producing \$200 million</p> <p>17 worth of work on an annual basis, you need much</p> <p>18 less outside consultant help.</p> <p>19 CHAIRMAN SCHILLERSTROM: And would it be safe</p> <p>20 to say that, you know, probably beginning in 2005</p> <p>21 or soon thereafter, with the Congestion-Relief</p> <p>22 Program, which was our first big capital plan, and</p> <p>23 then secondarily, and even to a greater extent with</p> <p>24 the Move Illinois Program, that we really started</p>

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<p style="text-align: right;">Page 18</p> <p>1 to hire more -- more and more engineers to help us 2 design the improvements that we're going to make 3 for those programs. So that really we went from, 4 you know, contracting out with a small percentage 5 of entities to really the large number of groups 6 that we rely upon today.</p> <p>7 MR. KOVACS: So I have conducted -- we just 8 had a bulletin selection on PSB 18-2. It had 9 12 items on it. We received 264 Statements of 10 Interest from 119 different firms on that.</p> <p>11 So what you're saying is absolutely 12 the case. We have a lot of people looking to get 13 engaged with Tollway work now.</p> <p>14 CHAIRMAN SCHILLERSTROM: Okay.</p> <p>15 MR. KOVACS: So this is slide number two. 16 So I'm going to -- I'm moving through this. And 17 I basically just wanted to highlight, these are 18 the types of services that we get with the 19 Qualifications-Based Selection Act.</p> <p>20 And most of the service is in the 21 first two categories. We rely on our consultants 22 to prepare the plans and specs for all of our 23 construction jobs for us. We call those the 24 designers.</p>	<p style="text-align: right;">Page 20</p> <p>1 office.</p> <p>2 So these particular services are 3 unique because they're not necessarily focused on 4 one particular project, and they actually have, 5 like, systemwide or programmatic responsibility. 6 So they're actually helping us manage all of the 7 other contracts.</p> <p>8 And the general engineering 9 consultant and the traffic engineer also have a 10 very special function at the Tollway because we 11 have made a commitment to have both of those 12 services as part of our trust indenture, and the 13 general engineer is responsible for inspecting our 14 system on an annual basis and certifying to our 15 bondholders that, yes, we are taking care of their 16 investment.</p> <p>17 CHAIRMAN SCHILLERSTROM: So would it be safe 18 to say that a general engineering consultant a part 19 of sort of -- you said our trust agreement. But 20 our trust agreement is really our agreement with 21 our bondholders.</p> <p>22 MR. KOVACS: Correct.</p> <p>23 CHAIRMAN SCHILLERSTROM: Our bondholders -- 24 we have substantial debt out there. We've told</p>
<p style="text-align: right;">Page 19</p> <p>1 And then when we put a job out into 2 construction, we actually hire consultants to help 3 us manage, monitor, and document the work that's 4 done by the contractor to make sure that it's in 5 accordance with the plans and specs. And we call 6 those construction managers.</p> <p>7 There are other engineering services 8 that we get through the Qualifications-Based 9 Selection Act, but these are more of a specialty 10 nature and do not comprise, you know, most of the 11 work.</p> <p>12 But we have geotechnical experts 13 involved, we have environmental folks who help us 14 deliver our work; survey, of course; and materials 15 engineering is also included. So those are to a 16 lesser extent, and they're more specialty.</p> <p>17 In addition to -- you know, so this 18 is the bulk of our Qualifications-Based Selections 19 are focused on these types of services.</p> <p>20 We also utilize it for evaluating 21 our foundational consultants. And those 22 consultants we -- there's only three of them. One 23 is the general engineering consultant, one is the 24 traffic engineer, and one is the program management</p>	<p style="text-align: right;">Page 21</p> <p>1 our bondholders that we will hire this general 2 engineering consultant who will sort of be an 3 outside entity to take a look at our operations 4 and sort of look over our shoulder, be an auditor, 5 for a better way of putting it, to protect the 6 bondholders.</p> <p>7 MR. KOVACS: Correct.</p> <p>8 CHAIRMAN SCHILLERSTROM: Okay. And we've 9 had -- that goes all the way back to the very 10 beginning of the Tollway.</p> <p>11 MR. KOVACS: Creation of the Tollway, correct.</p> <p>12 And the traffic engineer is the one 13 who certifies these are the traffic -- this is the 14 traffic we have on our system, this is the revenue 15 it's producing, and these are the projections for 16 the future.</p> <p>17 Once again, they are -- it's 18 dictated that those two services be separate, and 19 they both have those individual responsibilities on 20 top of, you know, other things in which we engage 21 them on.</p> <p>22 Because they -- because the general 23 engineer is a systemwide contract, I kind of refer 24 to them as the keeper of all my standards and my</p>

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<p style="text-align: right;">Page 22</p> <p>1 specifications. So whenever anybody says, Hey, why 2 don't you change this, that's the entity I go to to 3 say, Please evaluate this.</p> <p>4 They also keep us apprised of 5 changes that are happening at the federal or at 6 IDOT so that we're keeping up to date on all of our 7 normal standard requirements.</p> <p>8 And the traffic engineer, they get 9 engaged in reviewing most of our plans with respect 10 to the maintenance of traffic. So we're very 11 concerned with how we impact our customer when 12 we're doing our projects, and they are the experts 13 at that, so they guide us on some of those plan 14 developments.</p> <p>15 DIRECTOR VAZQUEZ ROWLAND: Can I ask a 16 question? On the traffic engineers, since they 17 keep tabs on the revenues, do they also advise us 18 on benchmarking the Tollway rates per roads?</p> <p>19 MR. KOVACS: Can you repeat the question? Do 20 they advise us on what rates we should be charging 21 at toll roads to satisfy the bondholders and to 22 satisfy the --</p> <p>23 VOICE: I believe they do have an obligation 24 that if we are -- if there's an anticipated</p>	<p style="text-align: right;">Page 24</p> <p>1 analysis that feeds into our bond sales.</p> <p>2 MR. KOVACS: That's another unique aspect 3 of these foundational contracts, the program 4 management office, and the general engineer and 5 the traffic engineer, is they interact with a 6 lot of other Tollway departments besides just 7 engineering. They have obligations to other 8 Tollway departments besides just engineering.</p> <p>9 DIRECTOR JOHNSON: So they have a good view 10 of everything.</p> <p>11 MR. KOVACS: Yes, they do.</p> <p>12 DIRECTOR JOHNSON: All encompassing.</p> <p>13 CHAIRMAN SCHILLERSTROM: These are generally 14 national firms or international firms.</p> <p>15 MR. KOVACS: Yeah, we do have requirements.</p> <p>16 CHAIRMAN SCHILLERSTROM: They have tremendous 17 experience.</p> <p>18 MR. KOVACS: Yes.</p> <p>19 So we do follow a formal selection 20 process for all these services, though, and I'm 21 going to cover that on this slide.</p> <p>22 It's commonly referred to as a 23 Qualifications-Based type selection. It's typical 24 for the industry and across the nation. In fact,</p>
<p style="text-align: right;">Page 23</p> <p>1 shortfall, they would have to put us on notice that 2 we would have to make a change.</p> <p>3 VOICE: That's right. They have an ob- -- 4 in the -- each year when we go through the budget 5 process, they provide a revenue estimate that in 6 the event that it's short of what's necessary to 7 satisfy our obligations, then they would make a 8 recommendation with respect to changing the rates 9 to satisfy that obligation.</p> <p>10 DIRECTOR VAZQUEZ ROWLAND: But do they also 11 tell us, in terms of benchmarking, how we're 12 doing --</p> <p>13 VOICE: As a practical matter, they've 14 provided us that kind of information, you know, 15 what others charge --</p> <p>16 VOICE: They look at the national trends, 17 what other agencies are charging per mile toll 18 rates. They benchmark us toward others. We get 19 that on quite often regular basis of where we stand 20 at any time anybody makes adjustments. So they 21 monitor that for us, and they also help us 22 establish toll rates for any of the new roads or 23 new interchanges that we open up. So that they do 24 work with us on all that. It gives a revenue</p>	<p style="text-align: right;">Page 25</p> <p>1 46 state governments also have a similar law that 2 they follow, and all federal agencies procure these 3 services via Qualifications-Based Selection, and a 4 lot of locals entities follow the Qualifications- 5 Based Selection process.</p> <p>6 The State of Illinois adopted this 7 law, and it's called the Architectural Engineering 8 and Land Surveying Qualifications-Based Selection 9 Act. It's actually codified in Public Act 87-673, 10 Chapter 30 of the Illinois Compiled Statute, 11 Section 535.</p> <p>12 And that law has some specific 13 things that it says "shall" as part of, you know, 14 anybody doing work or anybody doing this -- any 15 state agency who is implementing Qualifications- 16 Based Selection has to do those things. And one of 17 them is we have to publicly announce any of the 18 requirements that we anticipate for architectural 19 engineering or land surveying.</p> <p>20 CHAIRMAN SCHILLERSTROM: Paul, can I 21 interrupt you just for a second?</p> <p>22 MR. KOVACS: Yes.</p> <p>23 CHAIRMAN SCHILLERSTROM: I mean, I think this 24 is a specific area where I think that there's a</p>

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<p>Page 26</p> <p>1 fair amount of misunderstanding by members of the 2 public and also by the press. 3 We've seen references to the fact 4 that when we bring in, whether it's some of our 5 foundational firms or other engineering firms, that 6 these are no-bid contracts. And I think that's 7 what you've been talking about. But I think we 8 should just try and explain it. 9 We do use low-bid contracts for 10 construction. So, in other words, if you're going 11 to come in and you're going to build our road, 12 you're going to take our plans that our consultant 13 engineers drafted, and you're going to build a road 14 pursuant to that, that is low bid, and it's lowest 15 responsible bid. 16 So you have to be somebody who 17 knows what you're doing and are responding to our 18 request, and then you come in and you're going to 19 have the lowest bid. 20 MR. KOVACS: Correct. 21 CHAIRMAN SCHILLERSTROM: And that is done 22 pursuant to state law. 23 But there's also another state law, 24 I think, that says you can't use low bid for</p> <p>Page 27</p> <p>1 engineering contracts and for other professional 2 service. 3 And my feeling is there's a 4 tremendous misunderstanding there. It seems to me 5 that, you know, individuals, sometimes members of 6 the legislature and also the press feel that it 7 should be a low bid for engineering contracts. And 8 the law says it can't be. 9 And can you explain the philosophy 10 or the reasoning that has led to those laws that 11 say you don't have low bid for engineering 12 contracts or other professional services? Because 13 I think that's something that there's a lot of 14 misunderstanding on and one of those things where, 15 one, our hands are tied on it, and our hands are 16 tied for a very good reason. 17 MR. KOVACS: So I am a registered 18 professional engineer, so you're going to get a 19 professional engineer's viewpoint on this. 20 These services are so important to 21 public safety and so critical to public safety that 22 we believe that we should not -- it should be 23 similar to when a person is going to the doctor. 24 I don't necessarily pick a doctor -- I just had</p>	<p>Page 28</p> <p>1 cataract surgery. I didn't shop around for the 2 lowest-priced eye surgeon, you know. I went to 3 somebody that I felt was going to be the most 4 qualified for me and had a good reputation, 5 performed many of these operations in the past with 6 great success. I looked at the reviews online for 7 this individual, and I knew what I could afford, 8 and I picked that person to do that. 9 So I think it's similar to that. 10 It's not -- they don't believe that this particular 11 service is one that you should procure on a low-bid 12 basis because we want to make sure that these folks 13 are doing the job as well as they can do it for us. 14 We're not necessarily interested 15 in the cheapest version of what they can produce; 16 we're interested in the best version of what they 17 can produce. 18 CHAIRMAN SCHILLERSTROM: We want to make sure 19 that our bridges are designed correctly so that 20 they -- that's the most important thing; not that 21 it's done for the cheapest price, but that it's 22 done in the safest, most efficient way. We don't 23 want our bridges falling down. 24 MR. KOVACS: This is correct.</p> <p>Page 29</p> <p>1 DIRECTOR STEPHENS: So would you say lowest 2 responsible bidder is what we look for? 3 MR. KOVACS: On construction, it's lowest 4 responsive and responsible bidder. On engineering, 5 it's a two-step process. First you work to identify 6 who is the most qualified, then you negotiate price. 7 We always have the right to refuse. 8 The Board can exercise that right also when I bring 9 the contracts to the -- to you and I recommend 10 approval. We don't have to say we're going to do 11 the work. We can always say we don't want to do 12 the work, or we have the opportunity to go back and 13 re-scope the work if it's too expensive. 14 Like we want to rebuild a bridge. 15 The engineers say in order to design this plan, 16 it's going to take us \$100 million. The Board 17 always has the opportunity to say, Wait a minute, 18 that's way more than we were expecting. We're 19 going to have to figure out a different plan. 20 DIRECTOR JOHNSON: Well, Paul, isn't there 21 some checks and balances when -- because it leaves 22 it so open to one person's interpretation. Well, 23 he's the best, we're going to work with him. 24 Is there -- that's why most the</p>
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<p style="text-align: right;">Page 30</p> <p>1 responsive bidder, there is some checks and 2 balances by competition. Isn't there some checks 3 and balances on that -- 4 MR. KOVACS: I am going to cover that. 5 DIRECTOR JOHNSON: Oh, okay. 6 DIRECTOR VAZQUEZ ROWLAND: In addition to 7 that, when you mentioned the two-step process, 8 who's making that qualified judgment call and also 9 the price judgment call, are the people on those 10 committees qualified like you -- 11 MR. KOVACS: Right. 12 DIRECTOR VAZQUEZ ROWLAND: -- as engineers 13 within the agency, outside of the agency, which I 14 think we have that, but I just wanted to clarify. 15 MR. KOVACS: Those are excellent questions. 16 They were anticipated, and it's in the 17 presentation. So -- 18 DIRECTOR VAZQUEZ ROWLAND: Okay. 19 MR. KOVACS: -- we'll ... 20 CHAIRMAN SCHILLERSTROM: I just want to 21 follow up with Director Stephens real quickly, 22 though. 23 With engineering contracts, pursuant 24 to state statute, the state legislature has</p>	<p style="text-align: right;">Page 32</p> <p>1 selection committee that's obligated to review the 2 responses and decide who is the top three in ranked 3 order. It specifically states that in the law. We 4 have to identify the top three; one, two, and 5 three. And then we have to negotiate these 6 contracts at a fair and reasonable price. That's 7 what the Act says. 8 So here's what the Tollway does. 9 This next slide gives you an idea of all the 10 process we have associated with this. And we 11 advertise all of our opportunities on Professional 12 Services Bulletin. 13 Go ahead. 14 MS. VAZQUEZ ROWLAND: I'm sorry. I have to 15 apologize. I do have to leave for another meeting. 16 But I just wanted to ask one last thing -- 17 MR. KOVACS: Yes. 18 MS. VAZQUEZ ROWLAND: -- and then I'll read 19 the minutes and the notes. 20 My understanding is for the 21 engineers or the firms that do not get selected, 22 we do have a formal debriefing process to help them 23 understand where they missed the mark and a point 24 system that helps them understand how they may</p>
<p style="text-align: right;">Page 31</p> <p>1 recognized this, money is separated out from the 2 decision-making process initially. 3 So, in other words, you know, if 4 you have three engineering companies that come in, 5 their proposal only deals with their ability to do 6 the job. And then what happens is there's a 7 selection made based on the proposal, based on 8 their skill, and based on how they think it's going 9 to turn out. They pick somebody, and only then 10 with that entity do they start to talk money. And 11 if they can't come to an agreement on money, then 12 they go to talk to somebody else. 13 But the whole focus is on getting 14 the best engineering firm for that particular job. 15 Is that correct, Paul? Did I say 16 that right? 17 MR. KOVACS: That's correct. Absolutely. 18 CHAIRMAN SCHILLERSTROM: Go ahead. 19 MR. KOVACS: So the only other thing I'm 20 going to say, there's three things I just want to 21 point out on this slide right here. 22 New listed up there. Besides 23 publicly announcing these opportunities, we have 24 to procure based on qualifications. We have a</p>	<p style="text-align: right;">Page 33</p> <p>1 learn from that and also improve and enhance their 2 applications in the future. Is that correct? 3 MR. KOVACS: That's correct, Neli. I've been 4 debriefing. I've debriefed probably 40 or more 5 firms since the last selections. 6 The only time where we kind of 7 discourage interacting with them and getting them 8 debriefs is when we have an active procurement in 9 advertisement and we kind of say, you know, we 10 don't -- we want to avoid the appearance of any 11 impropriety. You can just hold your questions, and 12 we're happy to meet with you later. 13 And we've also done it at a lot of 14 public meetings. Gustavo and I and others at the 15 Tollway have presented, you know, this is how our 16 process is, this is how we evaluate your statements 17 of interest, these are the things that you can do 18 to improve your chances or opportunities for 19 presenting yourself in the best possible light so 20 that you will be considered. 21 CHAIRMAN SCHILLERSTROM: Okay. Go ahead. 22 MR. KOVACS: All right. So we advertise our 23 bulletins, and the firms that are interested in 24 doing our work respond to us by providing us with a</p>

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<p>Page 34</p> <p>1 statement of interest and, you know --</p> <p>2 CHAIRMAN SCHILLERSTROM: Can you just define</p> <p>3 what a bulletin is, basically.</p> <p>4 MR. KOVACS: So a bulletin is a formal</p> <p>5 document that we have which we've utilized for</p> <p>6 many, many years which gives a little blurb on this</p> <p>7 is the type of service the Tollway wants. We have</p> <p>8 the contract number, we say it's designed for this</p> <p>9 piece of the Central Tri-State Tollway. And by</p> <p>10 "design" we mean we want you to look at these six</p> <p>11 bridges, we want you to design this three miles</p> <p>12 of roadway, we expect you to do everything in</p> <p>13 accordance with our design engineers manual. And</p> <p>14 it's just a brief scope of what that service is.</p> <p>15 So that when they read it, they can understand</p> <p>16 what we're looking for and they can tailor their</p> <p>17 statement of interest to that specific job.</p> <p>18 CHAIRMAN SCHILLERSTROM: And their statement</p> <p>19 of interest is essentially their response saying,</p> <p>20 hey, we'd like to be considered for this.</p> <p>21 MR. KOVACS: Correct.</p> <p>22 And, you know, as far as competition</p> <p>23 goes -- and I said it already. On the last</p> <p>24 bulletin, 12 items -- 264 statements of interest</p>	<p>Page 35</p> <p>1 from 119 engineering firms, different engineering</p> <p>2 firms. I mean, this is a tremendous response. I</p> <p>3 mean, the Tollway, you know, for good or bad</p> <p>4 reasons, is enjoying the pick of whoever is</p> <p>5 interested right now because there's not a lot of</p> <p>6 work out there for engineering firms to do right</p> <p>7 now, so they are really focused on trying to get</p> <p>8 work with the Tollway.</p> <p>9 DIRECTOR JOHNSON: So we can get the best in</p> <p>10 the business.</p> <p>11 MR. KOVACS: We are. I believe we are.</p> <p>12 Unfortunately, we are also --</p> <p>13 because I've only had 12 items and I have 119</p> <p>14 firms, I've made a hundred firms be really happy</p> <p>15 with me, and the rest of them are thinking they did</p> <p>16 something wrong. And that's not necessarily the</p> <p>17 case either, it's just they weren't the number one</p> <p>18 on that particular day.</p> <p>19 It's a very thorough process that we</p> <p>20 go through. The first thing that we do is an</p> <p>21 administrative review of their statement of</p> <p>22 interest when it comes in, and that's just checking</p> <p>23 to make sure that they have submitted all the</p> <p>24 required documentation.</p>	<p>Page 36</p> <p>1 CHAIRMAN SCHILLERSTROM: And who does that?</p> <p>2 How do you determine who's going to do that Tier 1</p> <p>3 or -- yeah, it's Tier 1 or that initial review?</p> <p>4 MR. KOVACS: So this administrative review is</p> <p>5 done by engineering staff in our Contract Services</p> <p>6 Unit. And all they're doing is checking did we get</p> <p>7 all the required documents from them, do we</p> <p>8 actually have a statement of interest, have they</p> <p>9 supplied their workload form, have they supplied</p> <p>10 their key personnel commitment form, have they</p> <p>11 supplied -- do they have the pre-qualification to</p> <p>12 do this job?</p> <p>13 Because in our bulletins we say if</p> <p>14 it's a bridge job, we want you to be pre-qualified</p> <p>15 in bridge work.</p> <p>16 The Tollway itself does not have a</p> <p>17 pre-qualification process, and we just utilize what</p> <p>18 Illinois Department of Transportation has.</p> <p>19 UNIDENTIFIED VOICE: We also look at things</p> <p>20 that the State requires, right? Are they</p> <p>21 registered with the Board of Elections? Do they</p> <p>22 have the Department of Human Rights? Did they</p> <p>23 submit their disclosures? Did they submit</p> <p>24 everything in the solicitation that we asked them</p>	<p>Page 37</p> <p>1 to submit? So that's all part of the</p> <p>2 administrative review.</p> <p>3 CHAIRMAN SCHILLERSTROM: And the group that</p> <p>4 does this, they are trained to do this? Is this</p> <p>5 their sole job?</p> <p>6 MR. KOVACS: Yes. It's not their sole job,</p> <p>7 but when the bulletin is being processed, it is</p> <p>8 their sole job. But they are focused primarily</p> <p>9 just on the administrative aspects, just making</p> <p>10 sure the forms are there before these forms are</p> <p>11 distributed for review, the technical review, which</p> <p>12 is really Tier 1.</p> <p>13 Tier 1. So 264 statements of</p> <p>14 interest, that -- everyone has their normal job</p> <p>15 here, and engineering only has about 20 people in</p> <p>16 it. So these statements of interest are not going</p> <p>17 to be able to be reviewed with the type of</p> <p>18 attention that the consultants deserve because they</p> <p>19 put a lot of money and time into preparing the</p> <p>20 statement of interest; I want to make sure it gets</p> <p>21 reviewed thoroughly.</p> <p>22 The way that we have handled that</p> <p>23 is in Tier 1 we distribute these statements of</p> <p>24 interest. So on PSB 18-2 I had 12 items. Everyone</p>
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<p>Page 38</p> <p>1 within Engineering reviewed two items in detail, 2 and they score those items. They score those 3 statements of interest with respect to the technical 4 criteria, which we've included in the bulletin, 5 which was also consistent with what state law says. 6 Is the firm and the people qualified 7 to do the work? Do they have -- you know, what is 8 their current workload? Do they have the capacity 9 to do this job for us? What is their commitment of 10 their key people for doing this work for us? What 11 is their project approach to doing this specific 12 job? 13 And we've been strongly reinforcing 14 with the consulting community, Tell us how you 15 understand this specific job so that, you know, 16 we're impressed that we know that you understand 17 what it involves. 18 So I did two items on this past 19 bulletin. So one of my items was -- involved the 20 tying in of 490 to the Central Tri-State. And I 21 learned things about that job by reviewing these 22 statements of interest because the good firms 23 pointed out to me, Paul, there's going to be a lot 24 of railroad coordination with this, there's going</p> <p>Page 39</p> <p>1 to be a significant amount of maintenance of 2 traffic involved, and this is going to involve a 3 curved steel girder bridge, which is a level of 4 expertise which you need specialized people to do 5 this for us. 6 So everyone is committed to giving 7 us quality work on time, on budget, but the ones 8 who are starting to focus on the individual projects 9 and point out these unique challenges and how their 10 team is best suited to meet all these challenges, 11 they're making the biggest impression on us. 12 We also look at, you know, past 13 performance and the types of jobs that they have 14 done previously so that we understand, you know, 15 this is a firm that is going to do good work for us 16 and understands what's required because they've 17 done it on other -- for other people or for the 18 Tollway in the past. 19 But that's primarily what happens in 20 Tier 1. So three individuals from Engineering -- 21 could be the project manager, a deputy chief, and a 22 deputy program manager; or it could be a project 23 manager, a deputy program manager, and the chief -- 24 but we distribute the workload so that we're</p>	<p>Page 40</p> <p>1 guaranteeing that these statements are going to get 2 reviewed and are going to be thoroughly considered. 3 CHAIRMAN SCHILLERSTROM: And I take it you're 4 the one that assigns who reviews them and things? 5 MR. KOVACS: I assign the scores -- or I make 6 a recommendation on who I believe the score should 7 be for each of the items, and I also make a 8 recommendation on who should be involved on the 9 final selection. 10 And I make that recommendation to 11 the Executive Director, and the Executive Director 12 has the opportunity to review that recommendation, 13 provide input, comments, suggestions, and 14 eventually grants approval for it. And that's how 15 it works for the normal engineering services. 16 Foundational contracts, I'm going to 17 discuss that. We go through an even higher level 18 of review of those things. 19 DIRECTOR JOHNSON: So everything is checked, 20 double-checked. 21 MR. KOVACS: Yeah. So Tier 1 -- and 22 Engineering staff is doing a fantastic -- 23 Engineering and Planning staff gets engaged in 24 this. They do a fantastic job of reviewing and</p> <p>Page 41</p> <p>1 scoring all these statements of interest. 2 But what we're really trying to do 3 is we're trying to make sure that we're giving the 4 Tollway the opportunity to avail itself of as much 5 experience and capability of its own staff to 6 provide information to the final selection 7 committee. 8 So Tier 2 just takes it to the next 9 level because in Tier 2, as the Chief Engineer, I 10 don't know what all the Tier 1 results are. So I 11 engage my deputy chiefs, I also engage Diversity. 12 And what we do is we sit down and we look at, so on 13 these 12 items, how did the scores turn out based 14 on the technical review? How do all the firms 15 rank? 16 And one very important thing is if 17 there's the same firm on multiple items, we know 18 they can't be selected on multiple items because 19 their statement changes as soon as you select them. 20 If they've dedicated, you know, a person to be a 21 project manager, once we select them, they're not 22 available on the other projects. So we try to look 23 at that. And we're just trying to identify these 24 are the top firms.</p>
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<p style="text-align: right;">Page 42</p> <p>1 Diversity provides a lot of input at 2 this stage also because diversity is listed as one 3 of the criteria in our bulletin. And we tell 4 people: This will be one of the things that's 5 considered when we're evaluating your statement of 6 interest. And we're looking for a review of -- 7 with respect to them meeting the goals that we've 8 advertised for both DBE and veteran. We've been 9 promoting mentor-protégé arrangements, we've been 10 promoting team arrangements, we've been promoting 11 outright DBE and veteran primes on our jobs. So 12 we're looking for -- and we're promoting new firms 13 to get engaged with us. 14 So we're looking at the top scorers, 15 and we're evaluating that with respect to this 16 additional criteria also. 17 But really what comes out of Tier 2 18 is these are just the top firms that Engineering 19 and Diversity would recommend. 20 But none of this information, 21 none of this thorough review obligates the formal 22 selection committee, which is -- that's the last 23 step. And there's typically five individuals 24 assigned to do that. We like to have an odd number</p>	<p style="text-align: right;">Page 44</p> <p>1 based on qualifications, so there is a healthy 2 discussion about why an individual feels that firm 3 should be considered for that. 4 And it ultimately comes down to a 5 vote of the selection committee. And people write 6 down -- typically more than three get nominated. 7 So the first round of votes is always to let's just 8 cut it to the three, the top three. Because we 9 know the law says we've got to have one, two, and 10 three. 11 So the first round, you know, we can 12 nominate as many firms as we want, but the first 13 round of votes just cuts it to the top three. And 14 then we say, okay, amongst the top three, please 15 vote for your number one. And it goes onward until 16 we get one, two, and three as we're supposed to. 17 Coming out of that meeting, there is 18 a -- we -- Contract Services, once again, they're 19 just doing the administrative help for us. They 20 prepare a spreadsheet which shows these are the 21 firms that were selected, these are their -- it's 22 the prime firms, these are the subs that they have 23 on their teams, this is the item number. 24 I bring that up to the Executive</p>
<p style="text-align: right;">Page 43</p> <p>1 because then it will not result in ties all the 2 time. 3 But that selection committee, we 4 give them all the statements of interest, we give 5 them all of the Tier 1 scores. And they're done by 6 item. And you see, you know, 1 through 30 on some 7 of these. And then we give them the Tier 1 -- it's 8 on the same similar format as the Tier 1's. 9 Tier 2 is on the same format as 10 Tier 1, but we just kind of highlight these are the 11 top firms on the particular item. But all that 12 information is given to the selection committee so 13 that they have it for their use and to help guide 14 them in trying to come up with who should be the 15 one or who's the most qualified to do this work for 16 us. 17 The selection committee format, 18 it involves having a meeting of the selection 19 committee. There's five people. Anyone on the 20 selection committee can nominate a firm for 21 consideration. So it doesn't have to be number one 22 from Tier 1, it doesn't have to be the recommended 23 Tier 2. It could be anyone. But we have all this 24 information. We know we're obligated to evaluate</p>	<p style="text-align: right;">Page 45</p> <p>1 Director. I say, These are the results of the 2 selection committee. She can review it, and signs 3 it, and then we post the results on our website. 4 DIRECTOR JOHNSON: Again, who are the five 5 members of the selection committee? 6 MR. KOVACS: So the selection committee -- 7 and we have a slide for this. But the selection 8 committee is typically a representative -- well, on 9 the normal contracts -- there it is right there. 10 One representative from the executive office. I am 11 typically included on it. We engage two deputy 12 chiefs from Engineering. We have a public 13 representative who's independent of us and was 14 actually recommended by the industry. And he's 15 here today. And also we have an IDOT 16 representative. 17 But really the IDOT person is 18 primarily to serve as a reference for us. 19 They don't vote on the selections. But since 20 District 1 -- the same people are working for us 21 as are working for the Illinois Department of 22 Transportation. Sometimes they have a bulletin 23 selected, you know, the week before, and we don't 24 know what the results are. So they're kind of</p>

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<p style="text-align: right;">Page 46</p> <p>1 saying, you know, Wait a minute, selection 2 committee, we've selected them already and this 3 person is already obligated to us. 4 So they can provide input to us, and 5 we can also ask them, you know, if we don't have 6 experience with the firm, we can say, How did they 7 do for you? 8 DIRECTOR JOHNSON: The independent industry 9 representative, how is that chosen? 10 MR. KOVACS: So we got a recommendation. And 11 typically we get the recommendation either from the 12 American Council of Engineering Companies or the 13 Illinois Society of Professional Engineers. 14 And our representative is Fred 15 Coleman. And he's sitting right there. He's a 16 retired professor, right, from the University of 17 Illinois. I believe he serves in the same role for 18 the Department of Transportation. And I will say 19 he does a fantastic job for us. 20 CHAIRMAN SCHILLERSTROM: So from a 21 transparency point of view, are these done 22 publicly, these meetings, or what does the law say 23 about this, and how do you do it? 24 MR. KOVACS: The law doesn't specify that the</p>	<p style="text-align: right;">Page 48</p> <p>1 We might feel that this individual 2 is not the most qualified to do this job for us, 3 but that doesn't mean we don't feel they'd be fine 4 on every other job. 5 And I don't -- the selection 6 committee is very professional. The discussion 7 is very professional. I believe everybody is 8 sensitive to that anyways, it's just we haven't 9 done it. 10 CHAIRMAN SCHILLERSTROM: And clearly the law 11 does not mandate it. 12 MR. KOVACS: The law does not mandate it. 13 CHAIRMAN SCHILLERSTROM: And what does IDOT 14 do? 15 MR. KOVACS: I do not and have not 16 participated on IDOT selection committee, and I 17 can't say for sure how they conduct theirs. 18 CHAIRMAN SCHILLERSTROM: So you don't know if 19 they're open or not. 20 MR. KOVACS: Right. But I can find that out. 21 CHAIRMAN SCHILLERSTROM: Okay. 22 MR. KOVACS: If we could go back just one 23 slide. I wanted to point out that we do have a 24 slightly different process for our foundational</p>
<p style="text-align: right;">Page 47</p> <p>1 selection committee has to be a public meeting. 2 And we have not conducted it in a public format. 3 CHAIRMAN SCHILLERSTROM: And why is that? 4 MR. KOVACS: At least initially it was 5 because that's the way we had done business before. 6 I think in the ten years that I've 7 served as the Chief Engineer, I've gained an 8 appreciation that we really want the selection 9 committee -- we want to avail ourselves of the best 10 possible input from these individuals that are 11 tasked with this, and we want them to be open, 12 honest, and frank with each other and share the 13 information that they have so that we can guarantee 14 that we're making a good selection for the Tollway. 15 And it is sensitive material that 16 the firms have shared with us, and it does involve 17 individuals, project managers, resident engineers, 18 staff. 19 DIRECTOR JOHNSON: And you don't want to 20 embarrass anybody either. 21 MR. KOVACS: Well, I don't want to 22 necessarily have one selection committee meeting on 23 one particular item for one specific project impact 24 a person's career.</p>	<p style="text-align: right;">Page 49</p> <p>1 contracts, but it isn't different in any material 2 way. But what -- so we talked about those 3 foundational contracts. 4 These are the general engineer, 5 traffic engineer, and the program management 6 office. They are not one specific project; they 7 are like all of our work that they're helping us 8 with. So these are very complex jobs. 9 We do advertise specifically for 10 firms with national experience in those areas of 11 expertise, so we want to make sure we're getting 12 the right people involved with this. 13 And we do not get 264 responses on 14 these items. We typically get about three. So 15 there is no real need to distribute the workload on 16 these. The selection committee actually does every 17 part of the process. They do the thorough review 18 of the SOI, they do the scoring of the SOI. 19 In addition, because these are high 20 level, complex, important projects, when I put 21 together an email that makes the recommendation on 22 who should do this for the Tollway, I share that 23 with the Executive Director, the Chairman, and also 24 our Chief Operating Officer. So I get three</p>

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<p>Page 50</p> <p>1 approvals or input before that's final.</p> <p>2 In addition, I told you how Tier 2</p> <p>3 engaged higher-level engineering staff and</p> <p>4 expertise in the review of the item. There's no</p> <p>5 need for that. Tier 2 is replaced with the public</p> <p>6 presentation.</p> <p>7 So the firms that submit, we invite</p> <p>8 them to come to us, and they do. It's a public</p> <p>9 open meeting. It's advertised appropriately for</p> <p>10 public meeting. They have the opportunity to tell</p> <p>11 us about themselves in general.</p> <p>12 And then the selection committee has</p> <p>13 an independent interview following that public</p> <p>14 presentation with each of the firms where they're</p> <p>15 allowed to share with us any proprietary</p> <p>16 information they have that they don't want to share</p> <p>17 broadly amongst everybody because it's their work</p> <p>18 product.</p> <p>19 And the selection committee, after</p> <p>20 those individual interviews, deliberates the same</p> <p>21 way, discusses the same way, and votes the same</p> <p>22 way. And if we have three people that have</p> <p>23 submitted on it, we do rank them in top three order.</p> <p>24 And then we come out of that</p>	<p>Page 52</p> <p>1 We do have the independent industry</p> <p>2 rep or the public member sit on this one also, and</p> <p>3 we do invite IDOT to that. I don't know if we</p> <p>4 invite IDOT to this one, I have to check that.</p> <p>5 It's not a normal engineering service. IDOT does</p> <p>6 not have a general engineering consultant or a</p> <p>7 traffic engineer, so we don't usually have any</p> <p>8 overlap with them on that.</p> <p>9 So I know the last slide, we wanted</p> <p>10 to give you an idea of the timeline and the touch</p> <p>11 points with the Executive Ethics Commission.</p> <p>12 And really throughout the whole</p> <p>13 procurement process Engineering is coordinating a</p> <p>14 lot with John Donato and the procurement people at</p> <p>15 the Tollway. And I think this slide kind of walks</p> <p>16 you through one of them.</p> <p>17 MR. DONATO: All right. Thanks, Paul.</p> <p>18 So, Mr. Chairman and members of the</p> <p>19 committee, I think Paul did a really good job in</p> <p>20 describing our process internally in how we select</p> <p>21 these firms, whether they're regular engineering</p> <p>22 contracts or, you know, one of the three</p> <p>23 foundational ones.</p> <p>24 And that's really an internal</p>
<p>Page 51</p> <p>1 deliberation, and we announce who the top firm was,</p> <p>2 and the second and then the third.</p> <p>3 So all of this is codified, though,</p> <p>4 in the Tollway's two ISO procedures. We have --</p> <p>5 3100 is for all the other engineering contracts,</p> <p>6 and 3100B is specifically for foundational</p> <p>7 selections.</p> <p>8 DIRECTOR GORMAN (?) Can you say that again?</p> <p>9 31 --</p> <p>10 MR. KOVACS: 3100 is the ISO procedure</p> <p>11 number, and 3100B is the second one. That applies</p> <p>12 to foundational contracts.</p> <p>13 And the next slide shows you the</p> <p>14 selection committee. And you see how in</p> <p>15 foundational contracts the deputy chiefs of</p> <p>16 Engineering are -- we usually engage the Chief</p> <p>17 Financial Officer and the Chief of Diversity in</p> <p>18 these. And, as I mentioned, there's a lot more</p> <p>19 interaction between these consultants and those</p> <p>20 other departments. They do -- because of this</p> <p>21 trust indenture and fiduciary responsibility they</p> <p>22 have, you know, directly with the Chief of Finance,</p> <p>23 we like to get Mike's input on them in those</p> <p>24 aspects of their service.</p>	<p>Page 53</p> <p>1 function, right? The members of the Tollway are on</p> <p>2 the committees, contract services are the ones that</p> <p>3 review, perform the administrative review.</p> <p>4 So what I'm going to talk about now</p> <p>5 is a little bit deeper on how it relates to outside</p> <p>6 agencies that are involved in our process. Right?</p> <p>7 Specifically, the slide that's being</p> <p>8 displayed right now represents the general overview</p> <p>9 of our general engineering consultant procurement</p> <p>10 that led to the selection of WSP.</p> <p>11 So if we start back in February,</p> <p>12 that's when the Tollway published their</p> <p>13 advertisement. It's the bulletin. It's our</p> <p>14 solicitation. That's when we're informing the</p> <p>15 public of our need and our request.</p> <p>16 And during that process, you know,</p> <p>17 internal staff in engineering met with our state</p> <p>18 purchasing officer who is part of the CPO's office.</p> <p>19 Again, their agency is the Executive Ethics</p> <p>20 Commission. So that's independent oversight.</p> <p>21 So they go over the whole bulletin</p> <p>22 or that solicitation with the SPO, answered any</p> <p>23 questions that the SPO had at the time. And once</p> <p>24 we're all good with the document, we request it to</p>

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<p style="text-align: right;">Page 54</p> <p>1 be published, and the SPO publishes it on the 2 Illinois Procurement Bulletin. So any member or 3 firm that's registered in the procurement bulletin 4 under that specific class code would receive an 5 automatic automated notification of that 6 opportunity. So that's, you know, how the Ethics 7 Commission is involved in that step.</p> <p>8 April 3rd, that was the due date 9 from the state -- or from the community on the 10 statements of interest. We received, I believe, 11 three statements of interest on that procurement.</p> <p>12 The next line, between April 3rd and 13 May 11th, you know, the internal staff, as Paul 14 discussed, they were performing the administrative 15 review. And then Tier 1 within the Tollway 16 selection committee had taken place.</p> <p>17 Let's fast forward it a little bit, 18 May 11th. Since, again, this was a foundational 19 contract, this was a public meeting. So each of 20 the three bidders or proposers, they orally 21 presented their statements of interest in a public 22 venue. So this was something that we published in 23 the procurement bulletin and advertised to the 24 public. And it was open. And, again, our SPO had</p>	<p style="text-align: right;">Page 56</p> <p>1 So when a vendor identifies a 2 potential conflict, Tollway staff will look at the 3 conflict, see if it's one that may prohibit them 4 from having a contract or a subcontract. And once 5 we believe it's not one that would preclude that, 6 we send it to our independent SPO for review, as 7 was the case in this procurement.</p> <p>8 So an independent SPO reviewed it, 9 sent it to the CPO's office in Springfield. That 10 was reviewed and then sent to another independent 11 agency, the Procurement Policy Board.</p> <p>12 So the Procurement Policy Board 13 looks at all the conflicts, and then they make a 14 recommendation or determination whether or not it's 15 one that would preclude us from entering into a 16 contract or a subcontract with the firm that's 17 being considered.</p> <p>18 CHAIRMAN SCHILLERSTROM: So we have three 19 outside entities that take a look at things.</p> <p>20 MR. DONATO: Two. But the SPO and CPO are 21 housed in the same entity, the Ethics Commission. 22 So two individuals with one organization, and then 23 the Procurement Policy Board.</p> <p>24 CHAIRMAN SCHILLERSTROM: Okay. So somewhere</p>
<p style="text-align: right;">Page 55</p> <p>1 published that notice to invite the public to that 2 meeting.</p> <p>3 So then between May 11th and middle 4 of June, we enter into negotiations with the 5 selected firm, which was WSP. So following the 6 process, you know, the selection committee 7 determined that WSP was the most qualified vendor 8 to provide these services to the Tollway and 9 responded to all the requirements.</p> <p>10 So between June 19th and June 23rd, 11 you know, just like any other procurement, the 12 procurement code requires certain procurements that 13 have value greater than \$50,000, we have to check 14 for potential conflicts of interest. So obviously 15 since this contract was greater than that amount, 16 there was a certain -- there was potential 17 conflicts of interest that were submitted by the 18 general engineer and some of their subs.</p> <p>19 All of that got reviewed -- and I do 20 want to talk about the potential conflict process 21 real quick. I think it's important to note, you 22 know, some members of the public think that we do 23 things behind a closed door. And I want to make it 24 clear, that's not how it happens at all.</p>	<p style="text-align: right;">Page 57</p> <p>1 between two and three, then, depending on how you 2 define it.</p> <p>3 MR. DONATO: Correct.</p> <p>4 DIRECTOR GORMAN (?): And which Tollway staff 5 reviews?</p> <p>6 MR. DONATO: Internal people and Contract 7 Services Engineering Department.</p> <p>8 MR. KOVACS: I forward all of them on to 9 John. So I look at the review results and see if 10 I believe there's any potential conflict.</p> <p>11 And typically -- because they file 12 these. They file these on every single contract 13 they do with us. We're not usually learning 14 anything new, so it's -- most of them have already 15 been approved in the past. So I'm simply just 16 making sure that that's the case, and I pass it on. 17 They have different things they have to disclose, 18 right?</p> <p>19 MR. DONATO: Right, they do, depending on 20 what the relationship is.</p> <p>21 DIRECTOR JOHNSON: Okay. What are the -- 22 I mean, because I know we go through that with my 23 village all the time. What are the potential 24 conflicts that you're looking for that would give</p>

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<p style="text-align: right;">Page 58</p> <p>1 you the predisposition that, hey, this is going to</p> <p>2 be something that we don't --</p> <p>3 MR. DONATO: Okay. SO let's use that case.</p> <p>4 One of WSP's subcontractors is Morreale</p> <p>5 Communications, right?</p> <p>6 DIRECTOR JOHNSON: Yeah.</p> <p>7 MR. DONATO: The owner of Morreale</p> <p>8 Communications, her husband is a state legislator.</p> <p>9 So that's a conflict that's identified in the</p> <p>10 procurement code that --</p> <p>11 DIRECTOR JOHNSON: Now, let me ask you,</p> <p>12 why would that be a conflict? He is not -- he</p> <p>13 has no say over the Tollway, he's not -- you know,</p> <p>14 he doesn't appoint the members or anything. Just</p> <p>15 because her husband is an elected official, why --</p> <p>16 we're separate from the State. We're our own</p> <p>17 entity. Why would that be -- it would be like</p> <p>18 saying, Well, you know, your wife is a trustee in</p> <p>19 a town that Tollway runs through. I mean, so why</p> <p>20 would that be a conflict? I'm curious.</p> <p>21 MR. DONATO: Sure, Director Johnson. I hear</p> <p>22 you. And the procurement code requires it.</p> <p>23 So if an owner of a company's spouse</p> <p>24 is a legislator, you have to identify that. The</p>	<p style="text-align: right;">Page 60</p> <p>1 that one follows state statute and past practices.</p> <p>2 MR. DONATO: That's exactly what I'm saying.</p> <p>3 That's correct.</p> <p>4 CHAIRMAN SCHILLERSTROM: It was appropriately</p> <p>5 flagged as a conflict -- and a conflict in and of</p> <p>6 itself is not bad. It's how you deal with it,</p> <p>7 correct?</p> <p>8 MR. DONATO: That's correct.</p> <p>9 CHAIRMAN SCHILLERSTROM: And this was</p> <p>10 appropriately dealt with in all aspects, and these</p> <p>11 outside agencies looked at it and agreed. So it</p> <p>12 was reviewed by our people and by two outside</p> <p>13 agencies and found that it was no -- no prohibitive</p> <p>14 conflict.</p> <p>15 MR. DONATO: That's correct, Mr. Chairman.</p> <p>16 DIRECTOR JOHNSON: And it was brought up by</p> <p>17 them.</p> <p>18 MR. DONATO: It was. They identified it on</p> <p>19 their own. So in their document, since their</p> <p>20 subcontract was over 50,000, they had to complete</p> <p>21 those disclosure forms, and they identified it.</p> <p>22 It's not like we said, Hey, we know there's a</p> <p>23 relationship. They self-disclosed it, as required</p> <p>24 by law.</p>
<p style="text-align: right;">Page 59</p> <p>1 State wants to know who we're doing business with.</p> <p>2 So she's required by state law to document and</p> <p>3 disclose that potential conflict.</p> <p>4 And she did everything she was</p> <p>5 supposed to do. She identified the conflict,</p> <p>6 we ran it through our process, and then the</p> <p>7 Procurement Policy Board at the end of the day</p> <p>8 said, Okay, well, this is not a conflict that we</p> <p>9 believe should be -- that would be prohibited from</p> <p>10 them having a subcontract with WSP.</p> <p>11 Now, if they're a prime vendor,</p> <p>12 it would have been a different story. But they're</p> <p>13 not, they're a subcontract.</p> <p>14 And there's an opinion that was</p> <p>15 supplied, I think in 2013, by the legislative</p> <p>16 Inspector General that states that specific part</p> <p>17 of the legislation does not apply to subcontractors</p> <p>18 since they don't have the direct pecuniary interest</p> <p>19 with the State. Or the Tollway in our case. Okay?</p> <p>20 So we did follow that process. And that's how it</p> <p>21 works with the conflict.</p> <p>22 DIRECTOR JOHNSON: So it's been challenged</p> <p>23 before, it's gone through before, that kind of</p> <p>24 scenario, and everything that the Tollway did on</p>	<p style="text-align: right;">Page 61</p> <p>1 UNIDENTIFIED VOICE: The services that this</p> <p>2 firm provided are typical to be a sub of a bigger</p> <p>3 contract.</p> <p>4 MR. DONATO: Yes. That's industry standard</p> <p>5 practice, that is correct.</p> <p>6 And just so I'm clear or -- yeah.</p> <p>7 All the -- again, the solicitation, as Paul stated,</p> <p>8 it describes all of our scope of services,</p> <p>9 requirements. Communication was clearly one of</p> <p>10 that that was issued in part of the bulletin.</p> <p>11 So that got advertised June 22nd,</p> <p>12 full Tollway Board of Directors approved it, the</p> <p>13 majority approved it, and what we do then is once</p> <p>14 the potential conflicts are clear with the State,</p> <p>15 we go -- we recommend to our independent oversight</p> <p>16 to publish the award notice to the prime vendor,</p> <p>17 which would be WSP in this case.</p> <p>18 So that was reviewed by our</p> <p>19 independent SPO and then published. The SPO was</p> <p>20 grant -- the SPO granted approval on July, I</p> <p>21 believe, 10th it was of last year.</p> <p>22 So we then published the notice to</p> <p>23 the Illinois Procurement Bulletin, as required by</p> <p>24 law, and then we went through a 14-day protest</p>

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<p style="text-align: right;">Page 62</p> <p>1 period.</p> <p>2 And concurrently to that when we</p> <p>3 publish a notice on the procurement bulletin, the</p> <p>4 law allows the Procurement Policy Board, again,</p> <p>5 another independent agency, it allows them a 30-day</p> <p>6 review period of our award. So they could ask the</p> <p>7 Tollway any questions about the award. They could</p> <p>8 bring us in a public hearing if they wanted to.</p> <p>9 None of that happened.</p> <p>10 Within a few days after the award</p> <p>11 was posted, the Procurement Policy Board granted</p> <p>12 a waiver to their 30-day review period. In other</p> <p>13 words, saying, We're fine with the award that was</p> <p>14 published. Okay?</p> <p>15 So then I believe a little bit after</p> <p>16 that that's when we executed the contract and we</p> <p>17 issued a conditional notice to proceed because</p> <p>18 during that time I think the potential conflict in</p> <p>19 the Morreale was still outstanding, so Engineering</p> <p>20 issued a conditional notice to proceed to WSP to</p> <p>21 continue -- or to start performing the services</p> <p>22 that were scoped out, but they also directed them</p> <p>23 not to start any communications work with Morreale</p> <p>24 until that conflict was cleared, and that came</p>	<p style="text-align: right;">Page 64</p> <p>1 bulletin is where -- there's two sides. There's</p> <p>2 the public side, and then there's the State side.</p> <p>3 Right? So on the State side it's clear that these</p> <p>4 conflicts were identified and they were approved.</p> <p>5 It's posted. It's on there. But the public cannot</p> <p>6 view that; the State doesn't give that as an option.</p> <p>7 CHAIRMAN SCHILLERSTROM: Could we --</p> <p>8 MR. DONATO: We don't own the bulletin, just</p> <p>9 so you know; the State owns it.</p> <p>10 CHAIRMAN SCHILLERSTROM: Can we publish that</p> <p>11 information if we chose to?</p> <p>12 MR. DONATO: Sure.</p> <p>13 DIRECTOR STEPHENS: When we let the contract,</p> <p>14 can we identify that at a board meeting that these</p> <p>15 were the potential conflicts and they've been</p> <p>16 cleared by these levels of clearance?</p> <p>17 MR. DONATO: Yes, we can do that. We're not</p> <p>18 prohibited.</p> <p>19 DIRECTOR JOHNSON: So if I bring that up,</p> <p>20 that way the press doesn't say, Oh, look what we</p> <p>21 found, look what we dug --</p> <p>22 MR. DONATO: Right.</p> <p>23 DIRECTOR JOHNSON: I think it should be</p> <p>24 public.</p>
<p style="text-align: right;">Page 63</p> <p>1 shortly after.</p> <p>2 And then, of course, the Procurement</p> <p>3 Policy Board, they agreed with all those potential</p> <p>4 conflicts on their subcontractors as well.</p> <p>5 DIRECTOR GORMAN: What communication did like</p> <p>6 the CPO's office then provide saying that the</p> <p>7 conflict is cleared or there's no -- nothing</p> <p>8 prohibitive? Is there email communication, letters?</p> <p>9 MR. DONATO: So the last person to review it</p> <p>10 was the Procurement Policy Board. They said no</p> <p>11 conflict, enter the contract. Right? And then it</p> <p>12 goes right back around the home. And it goes back</p> <p>13 to the CPO's office to the SPO, and then we get the</p> <p>14 notification from our SPO essentially stating</p> <p>15 here's the trail, it's good to go. So it was all</p> <p>16 communicated via email in writing.</p> <p>17 DIRECTOR GORMAN: Okay.</p> <p>18 DIRECTOR STEPHENS: Is any of this stuff</p> <p>19 published in any public type of medium anywhere</p> <p>20 that these conflicts were raised before the</p> <p>21 contract was written and signed and that they've</p> <p>22 cleared all these hurdles, or is that just</p> <p>23 something that the media has to FOIA and --</p> <p>24 MR. DONATO: Yeah, so the procurement</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. DONATO: Yeah. There's nothing that</p> <p>2 prohibits us from doing that, so we could</p> <p>3 definitely consider it.</p> <p>4 DIRECTOR JOHNSON: And there's nothing --</p> <p>5 other than to follow-through.</p> <p>6 MR. DONATO: And, again, all those steps --</p> <p>7 like I said, there was -- you know, we did have</p> <p>8 some outside agencies be a part of the independent</p> <p>9 oversight at the Ethics Commission and the</p> <p>10 Procurement Policy Board.</p> <p>11 DIRECTOR JOHNSON: And that all followed</p> <p>12 State statute.</p> <p>13 MR. DONATO: All followed State statute</p> <p>14 exactly.</p> <p>15 So we followed our process. We</p> <p>16 followed the law that prescribes us on how to</p> <p>17 select engineers. You know, again, low bid is</p> <p>18 construction activity when we're building the roads</p> <p>19 as the Chairman said.</p> <p>20 DIRECTOR JOHNSON: Now, Paul, considering we</p> <p>21 do, what, a billion dollars a year, I mean, that's</p> <p>22 a lot of business, a lot of different firms, a lot</p> <p>23 of -- it's hard not to come across potential</p> <p>24 conflicts. It's almost impossible.</p>

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<p style="text-align: right;">Page 66</p> <p>1 I mean, in a town our small, we get 2 them all the time too. 3 MR. KOVACS: Oh, yeah. 4 DIRECTOR JOHNSON: There's only so many 5 players out there. 6 MR. KOVACS: I think we have 330 firms have 7 done work for us, and these conflicts, we process 8 them all the time. 9 DIRECTOR JOHNSON: So it's not unusual. 10 MR. KOVACS: They're all potential conflicts. 11 And we review them and we see was it -- you know, 12 do we think it's an issue? And then we pass it on 13 to the appropriate parties who are outside the 14 Tollway to make the final decision on it. 15 DIRECTOR JOHNSON: And, again, there's only 16 so many players that can do that kind of work. 17 You've got kind of a limited playing field, you 18 know, that you do work with. 19 MR. DONATO: Right. You know, I agree, 20 Director Johnson. It's probably why the General 21 Assembly said, Just because there's a potential 22 conflict, it doesn't mean there is a conflict. 23 Right? There's a process to vet it, and we follow 24 that.</p>	<p style="text-align: right;">Page 68</p> <p>1 for either of these two gentlemen? 2 DIRECTOR JOHNSON: Good job. Thank you. 3 CHAIRMAN SCHILLERSTROM: And I take it 4 that -- and I would just say to the members of the 5 committee, if you go back and you review your notes 6 and review the handouts and you have questions, 7 we're happy to revisit these issues at the next 8 meeting. 9 And I guess the last thing I would 10 say to you two gentlemen before I let you go, call 11 our next person up, is -- and I don't know that I 12 would ask you to necessarily respond to this today, 13 but we would ask you to at least think about any 14 recommendations that you could make. 15 I mean, you guys are the insiders, 16 you're the experts, you deal with this stuff on a 17 day-to-day basis. Any changes that we could make 18 both internally -- you know, what can we do just 19 as, you know, this ad hoc committee and the Tollway 20 Board and senior staff to make changes to make our 21 process, one, work better, work better for the 22 Tollway, for our customers, and for the people of 23 Illinois to make it be more transparent and to 24 maybe address some of the concerns that we've heard</p>
<p style="text-align: right;">Page 67</p> <p>1 DIRECTOR JOHNSON: Yeah, if we're doing \$200 2 million a year, Paul, like we did before, you know, 3 okay, that's not bad. But with the size and the 4 scope of the work we're doing, the volume we're 5 doing, it's almost impossible not to have conflict. 6 CHAIRMAN SCHILLERSTROM: Plus, we're the only 7 game in town. IDOT's doing nothing, and the other 8 agencies have historically done more (inaudible) -- 9 DIRECTOR JOHNSON: And so you got some 10 200-and-some bids available. 11 MR. KOVACS: And the disclosures are pretty 12 extensive. I mean, there's a lot of -- if you have 13 anyone who's working in other -- for another state 14 agency, you have to disclose that. If there's -- 15 MR. DONATO: Right. If someone's spouse is 16 on another state board somewhere, they have to 17 disclose. And all that gets looked at. 18 And let's say if they disclosed it 19 two years ago, it still has to go through the 20 process again to get looked at. 21 MR. KOVACS: Every project. 22 MR. DONATO: It does. 23 Any questions? 24 CHAIRMAN SCHILLERSTROM: Yes. Any questions</p>	<p style="text-align: right;">Page 69</p> <p>1 out there without, I guess, adversely impacting how 2 the Tollway does business. 3 So at some -- I'd like you to go 4 back and think about that. I mean, if you have 5 something today, you can give it to us right now, 6 but, you know, what can we do to do things better? 7 And that's internally, but also externally. 8 I mean, we have no qualms about, you 9 know, going to the State legislature and saying 10 we've really studied our operations and we think 11 that a change in state law would make us a better 12 functioning agency either from a transparency point 13 of view or an operational point of view. So we're 14 looking for ideas, and you guys are -- you know, 15 you're the experts. 16 MR. DONATO: And, Mr. Chairman, I think Paul 17 and I could put our heads together, talk to our 18 staff, and I do think that we could come up with 19 some recommendations for sure. 20 CHAIRMAN SCHILLERSTROM: Good. 21 DIRECTOR JOHNSON: And then what we talked 22 about today, the getting out to the public more, 23 earlier about potential conflict, purchasing 24 proactive.</p>

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<p style="text-align: right;">Page 70</p> <p>1 MR. DONATO: You know, Mr. Chairman, one more 2 think I'd like to state, you know, just to make it 3 clear to everyone. So the selection committee is 4 not public. The foundational ones are, the 5 engineering one isn't. 6 I've been in four different state 7 agencies. I've been in state procurement for over 8 14 years, I've been Chief of Procurement here at 9 the Tollway for over seven years now. 10 And I'll tell you, in every RFP 11 which is a non low-bid situation when there's an 12 evaluation of the committee scoring vendors, that's 13 always done in private. It's never done publicly. 14 In every agency I've participated in, it is never 15 public. It's to keep the integrity of the process. 16 Evaluators don't want the public to 17 know who they are because what happens is if 18 somebody may know that Jane Doe is a member of the 19 committee, then some people on the outside may try 20 to approach Jane Doe and say, Hey, one of my firms 21 is submitting a bid on this, we're really looking 22 forward to it, I really think you should select us. 23 And it keeps them removed from that process. 24 CHAIRMAN SCHILLERSTROM: Do we -- and I guess</p>	<p style="text-align: right;">Page 72</p> <p>1 That's got to get out there. People got to know 2 that, hey, this is not just done inside, it's done 3 by an independent outside. That's where we're 4 falling short, I think, is -- I think we do a good 5 job. You know, even though I know -- I respect 6 Mr. Chairman wanting to do this, but I felt before 7 we started, I knew we were doing a good job because 8 I've seen it for three years over. We're just not 9 getting the message out publicly. 10 CHAIRMAN SCHILLERSTROM: Well, there's 11 obviously a tremendous amount of misunderstanding. 12 DIRECTOR JOHNSON: Yes. 13 CHAIRMAN SCHILLERSTROM: You know, the press 14 seems to think that engineering contracts should be 15 low-bid. And, I mean, I think there's been a very 16 good recitation today as to the dangers that that 17 would create if that took place. 18 So I mean, I think what we hope to 19 do here is understand exactly what we do, why we do 20 it. Also -- looking to make changes where we can 21 to make it better, but also sort of explain the 22 checks and balances that are built into this. 23 Any other questions for these two 24 gentlemen?</p>
<p style="text-align: right;">Page 71</p> <p>1 this is one of the things to think about. I 2 understand what you're saying there before the 3 process takes place, while the process takes place. 4 Subsequent to the process, is that 5 something that it would be beneficial or not to 6 make it public? In effect, to be more transparent? 7 And I'm not necessarily asking for 8 an answer on that right now, but I think that's, 9 you know, something to be considered or at least to 10 discuss. So I'd ask you to think about that. You 11 guys are in the trenches; you know better than we 12 do. 13 MR. DONATO: Understood. 14 DIRECTOR JOHNSON: And I would like to see 15 us some way, to our PR people, after you explain 16 the process, the checks, the balances, the double- 17 checks and all the rest, as much as triple-checks, 18 that's got to get out there somehow. I mean, 19 obviously the press doesn't pick up on it because 20 it's not newsworthy, it doesn't make a good 21 salacious story with that. 22 But we need to get out there. 23 People do need to understand how this system is so 24 over-checked and re-checked and under -- everything.</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. KOVACS: So I'll just say one more thing. 2 I probably -- and it is towards what you're saying. 3 And I'm not interested so much in getting the word 4 out, but I am interested in making sure that the 5 Board and the Chairman and everyone here 6 understands, the process has worked for us, and 7 it's worked very well. 8 We've had 21 -- 21 bulletins just 9 since the start of Move Illinois. So that's 10 seven years. 21 bulletins. We had 233 items 11 representing about \$1.8 billion worth of 12 engineering services to be done for us. We've 13 selected 140 unique firms. So 140 of the 233 14 items. 140 firms, unique primes, have been engaged 15 in it. 16 43 were DBE or veteran firms out of 17 those 140. 310 unique subconsultants have been 18 involved in our work. And, you know, 172 of them 19 have been DBE or veteran-owned firms. 20 The service we've gotten has -- the 21 Tollway could not deliver its program without these 22 services. And the services have not gone to one 23 particular firm; they have been widely distributed 24 to take advantage of the full strength and capacity</p>

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<p style="text-align: right;">Page 74</p> <p>1 that the community, especially in this region, has.</p> <p>2 So I think staff has done a great</p> <p>3 job in evaluating all of those statements of</p> <p>4 interest that went along with all those bulletins,</p> <p>5 and we've obviously availed ourselves of probably</p> <p>6 the best that -- services we can get here.</p> <p>7 CHAIRMAN SCHILLERSTROM: Okay. All righty.</p> <p>8 Thank you.</p> <p>9 Next, we're honored and grateful</p> <p>10 to have Mr. Ed Gower with us today. He is an</p> <p>11 attorney. He served as IDOT's Chief Counsel for</p> <p>12 12 years from 1991 through 2003. And in private</p> <p>13 practice he is a well-recognized expert in</p> <p>14 government procurement.</p> <p>15 He is routinely retained by</p> <p>16 governmental agencies and entities, including</p> <p>17 transit agencies, airport authorities, and units</p> <p>18 of local government to provide advice concerning</p> <p>19 governmental powers and structural issues and best</p> <p>20 practices and advice.</p> <p>21 And we are happy to have him here</p> <p>22 today to opine a little bit on our operations and</p> <p>23 hope to give us a little bit of guidance.</p> <p>24 So, Mr. Gower, if you could come</p>	<p style="text-align: right;">Page 76</p> <p>1 lives of, at that point, millions of travelers on</p> <p>2 your system. And there's no way that you could</p> <p>3 ever compensate those people, nor can you ever get</p> <p>4 that back. So getting it right the first time is</p> <p>5 absolutely critical. And I'm glad to see you</p> <p>6 paying as much attention to the process as you have.</p> <p>7 I want to touch briefly on a couple</p> <p>8 of things, a couple of issues that were raised when</p> <p>9 Paul was speaking and when John was speaking.</p> <p>10 You asked about bidding engineering</p> <p>11 services. There's a Qualifications-Based Selection</p> <p>12 Act that Paul referenced that governs state</p> <p>13 agencies. There's also a local Qualifications-Based</p> <p>14 Selection Act that requires Qualifications-Based</p> <p>15 Selection procedures for local units of government</p> <p>16 as well.</p> <p>17 And it's not merely an Illinois</p> <p>18 phenomena; there's a federal law called the Brooks</p> <p>19 Act. And for any contracts that are federally</p> <p>20 funded, you're required to use that Qualifications-</p> <p>21 Based Selection procedure as well. And it is very</p> <p>22 similar to what's in the Qualifications-Based</p> <p>23 Selection Act that we have in the State of</p> <p>24 Illinois. In fact, that Qualifications-Based</p>
<p style="text-align: right;">Page 75</p> <p>1 forward and sit down here. And once again, we know</p> <p>2 you have a lot of things going on, and we're very</p> <p>3 grateful for you to come and impart your knowledge</p> <p>4 to us today.</p> <p>5 MR. GOWER: Mr. Chairman, I'm flattered to be</p> <p>6 here.</p> <p>7 What you do in the Chicago region</p> <p>8 and the importance of what you do, you're part</p> <p>9 of -- an essential part of the backbone of the</p> <p>10 public infrastructure that makes the economy turn</p> <p>11 here. And that -- of course, you have an awesome</p> <p>12 responsibility, and I know with that awesome</p> <p>13 responsibility comes a lot of scrutiny and helpful</p> <p>14 comments. I appreciate the position you're in, and</p> <p>15 I appreciate the work you do.</p> <p>16 CHAIRMAN SCHILLERSTROM: Thank you.</p> <p>17 MR. GOWER: So thank you for inviting me in.</p> <p>18 That also ties into the importance</p> <p>19 of what Paul talked about because it is absolutely</p> <p>20 essential that you get high-quality professional</p> <p>21 engineering services that -- from engineers who are</p> <p>22 qualified to do the work. Because if you get a bad</p> <p>23 set of plans and you have constant changes on the</p> <p>24 job and you delay the job, you're impacting the</p>	<p style="text-align: right;">Page 77</p> <p>1 Selection Act was modeled after the procedures</p> <p>2 followed by IDOT in conformity with the Brooks Act.</p> <p>3 So it's not -- you're not unusual.</p> <p>4 In fact, you're mandated by state law and by --</p> <p>5 to the extent you use federal funds, which I</p> <p>6 understand you don't -- but should you ever use</p> <p>7 federal funds, you'd be -- and you were using them</p> <p>8 for your engineering services contracts, you would</p> <p>9 be required to follow a Qualifications-Based</p> <p>10 Selection procedure as well.</p> <p>11 Paul was asked a question about the</p> <p>12 publication concerning the IDOT selection committee</p> <p>13 and was that a public hearing. And the answer is</p> <p>14 no, never.</p> <p>15 Consistent with what John said,</p> <p>16 every agency that I know of that engages in</p> <p>17 Qualifications-Based Selection procedures does it</p> <p>18 behind closed doors to protect, among others, the</p> <p>19 reputation of the people being discussed. So</p> <p>20 you're not unique in that respect either.</p> <p>21 CHAIRMAN SCHILLERSTROM: Do you think that</p> <p>22 if you -- you know, there's been a move towards</p> <p>23 transparency in all things regarding government.</p> <p>24 And I think generally that's good.</p>

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<p style="text-align: right;">Page 78</p> <p>1 But you've talked a little bit about</p> <p>2 the fact that it may have a negative impact on, and</p> <p>3 perhaps even the chilling effect on engineering</p> <p>4 firms that might come forward.</p> <p>5 You know, do you think that if it</p> <p>6 went public, that there would be less firms under</p> <p>7 certain circumstances that may want to respond and</p> <p>8 it would narrow our pool or ...</p> <p>9 MR. GOWER: I think it would have a -- first</p> <p>10 of all, most important, apart from whether it</p> <p>11 impacts the number of firms you have coming in the</p> <p>12 door or not, you're going to have a chilling effect</p> <p>13 on your staff members who are sitting on that</p> <p>14 committee in terms of their willingness to openly,</p> <p>15 freely, and honestly express their opinions about</p> <p>16 the quality of the firms coming before them and</p> <p>17 their capability, capacity to do the work and some</p> <p>18 of the staff members that they have. You're just</p> <p>19 not going to get that sort of honest discussion.</p> <p>20 So I think it's a terrible idea.</p> <p>21 CHAIRMAN SCHILLERSTROM: Okay.</p> <p>22 DIRECTOR JOHNSON: And you said no one does</p> <p>23 that.</p> <p>24 MR. GOWER: Not to my knowledge. I'm not</p>	<p style="text-align: right;">Page 80</p> <p>1 I mean, there are other things --</p> <p>2 you know, there was a -- I don't know whether you</p> <p>3 want me to go ahead and hit these now, but --</p> <p>4 CHAIRMAN SCHILLERSTROM: Yes. Go ahead.</p> <p>5 MR. GOWER: But there was some discussion</p> <p>6 about the identity of the selection committee</p> <p>7 members.</p> <p>8 IDOT does not publicly distribute</p> <p>9 those. They're not part of what they announce.</p> <p>10 I believe that the Tollway, after</p> <p>11 the selection is made, identifies the members of</p> <p>12 the selection committee in its public information.</p> <p>13 MR. KOVACS: I don't know if -- we don't have</p> <p>14 a formal announcement of the selection committee,</p> <p>15 but --</p> <p>16 CHAIRMAN SCHILLERSTROM: We may have done it</p> <p>17 for foundational, but I don't think we generally do</p> <p>18 it, do we?</p> <p>19 MR. KOVACS: For foundational, it was known,</p> <p>20 because we were at the public meeting.</p> <p>21 CHAIRMAN SCHILLERSTROM: But otherwise I</p> <p>22 don't know that we have historically done that.</p> <p>23 MR. GOWER: Well, that's going to tie into</p> <p>24 something I'm going to talk about a little bit</p>
<p style="text-align: right;">Page 79</p> <p>1 aware of anybody that holds public meetings to</p> <p>2 discuss the qualifications of a potential</p> <p>3 contractor.</p> <p>4 DIRECTOR JOHNSON: I know we don't do it in</p> <p>5 our village. We never do that in our village.</p> <p>6 MR. GOWER: Well, IDOT has rules that were</p> <p>7 passed in JCAR that Paul referenced briefly that</p> <p>8 spell out what's private. And among other things,</p> <p>9 you know, they are required to do, by their rules,</p> <p>10 evaluations of engineers after they complete their</p> <p>11 work. And those evaluations then are subsequently</p> <p>12 used during the evaluation process for new jobs.</p> <p>13 And those evaluation forms are specifically</p> <p>14 precluded from being openly distributed. They're</p> <p>15 not subject to the Freedom of Information Act.</p> <p>16 DIRECTOR STEPHENS: If somebody identifies --</p> <p>17 one of the selection committee members identifies a</p> <p>18 deficiency on a firm and they correct that</p> <p>19 deficiency, they're forever tagged with that</p> <p>20 deficiency in a public forum. That's just not fair.</p> <p>21 MR. GOWER: I agree. I mean, I believe that</p> <p>22 the procedure that is uniformly followed by every</p> <p>23 agency of which I'm aware is the right procedure</p> <p>24 and completely defensible.</p>	<p style="text-align: right;">Page 81</p> <p>1 because I think there are some -- a few changes</p> <p>2 that you could make that would make your process</p> <p>3 better.</p> <p>4 But I was just in front of the</p> <p>5 Procurement Policy Board for another client</p> <p>6 concerning a University of Illinois at Chicago</p> <p>7 software contract. There's a \$60 million contract,</p> <p>8 and there were questions being raised. And the</p> <p>9 procurement policy that I -- the UIUC refused to</p> <p>10 identify the names of its selection committee, and</p> <p>11 that enraged the procurement policy board members.</p> <p>12 They were offended that they couldn't know who was</p> <p>13 making the decisions on a \$60 million contract</p> <p>14 utilizing public funds.</p> <p>15 And I think that may be somewhat</p> <p>16 the expectation of the public. And I don't --</p> <p>17 after the decision is made -- I wouldn't do it</p> <p>18 beforehand, but after the decision is made, there</p> <p>19 are people in the public who think that they have</p> <p>20 the right to know that.</p> <p>21 I'm going to leave it in your hands.</p> <p>22 You have a better sense for that than I do.</p> <p>23 DIRECTOR JOHNSON: But would that -- could</p> <p>24 you -- what about knowing beforehand? You end up</p>

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<p>Page 82</p> <p>1 using a lot of the same people time and time again. 2 Wouldn't that open the door that, hey, you know, 3 Tim, he's done like six out of the last seven of 4 those. Let me give Tim a call. He may have the 5 next. 6 I mean, wouldn't that open that door 7 to that potential? Because we don't have that many 8 different people doing it. 9 MR. GOWER: If there's an ongoing 10 procurement, that can't be discussed. It's barred 11 by the procurement code. 12 I will tell you -- and, again, I'll 13 get to this in a little bit. But I will tell you 14 that there's a -- in the administrative rules that 15 have been approved by JCAR, the IDOT administrative 16 rules that Paul referenced, there's a permanent 17 structure for the selection committee. 18 For example, for highway projects. 19 And that is the -- that permanent selection 20 committee consists of the Deputy Secretary of 21 Transportation for the department. 22 The regional engineer -- that's 23 broken up into five regions. And the regional 24 engineer for the region in which the project is</p>	<p>Page 84</p> <p>1 they have three members selected from the public. 2 Two of them -- they're all for two-year terms, so 3 their identity is known as well. Two of them are 4 selected by the Illinois Society of Professional 5 Engineers, the third one is selected by the IDOT 6 secretary. And by rule they're required to have 7 expertise in transportation or engineering, 8 hopefully not mechanical engineering because you 9 don't use too much of that in the road-building 10 process. 11 So I am more -- I'm obviously more 12 familiar with -- I've been in private practice now 13 for 15 years since I left IDOT, but I'm still more 14 familiar with the IDOT selection process and 15 procedures than the Tollway's. I've read them, I 16 know about them. 17 The IDOT process has worked well 18 for -- and really has been unchallenged for any 19 number of years in large part because it's, like 20 yours, a professional engineer-based and run 21 evaluation process. And the people who -- there 22 is a philosophy that I think is imbued into the 23 engineers that, you know, while they do report to, 24 for example, to Paul Kovacs, they also -- their</p>
<p>Page 83</p> <p>1 being selected. The director of the Office of 2 Planning and Programming, which does all the -- 3 basically structures the five-year program and the 4 one-year program. And then the Director of 5 Highways. 6 And, you know, everybody in the 7 consulting community knows who those people are, 8 and of course they'd like to see them and they'd 9 like to talk them about their qualifications. 10 And they're free to do that when 11 there's not a procurement pending. But if they 12 attempt to talk to them while a procurement is 13 pending, several different things are going to 14 happen. 15 First, they're going to seriously 16 irritate the member of the selection committee. 17 Second, that selection committee, pursuant to the 18 procurement code, has to file a formal notice that 19 somebody has contacted them and attempted to talk 20 to them concerning an ongoing procurement. As a 21 practical matter, if it happens, I'd be very, very 22 surprised. 23 So to continue on with the structure 24 of the IDOT selection committee, they have two --</p>	<p>Page 85</p> <p>1 main client, if you will, is the traveling public. 2 And it's their obligation to do what's the right 3 thing, and it's their obligation to do everything 4 they can to enhance the public interest and protect 5 the public safety. And that's -- that overriding 6 philosophy that permeates the process I think is 7 essential. 8 There are some differences in the 9 IDOT selection process versus, you know, the 10 Tollway process. They're similar in many, many 11 respects. I just touched on one of them, which is 12 that the IDOT has a formal structure to the 13 committee and a permanency among the members, at 14 least by title. 15 You have that apparently informally, 16 but your protocol says that the members of the 17 selection committee are selected by the chief 18 engineer. 19 And I would urge you to at least 20 consider making the selection committee a more 21 permanent and visible component where you don't -- 22 where you're not changing the committee or don't 23 have the opportunity to change the committee on a 24 routinized basis depending on the procurement</p>

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<p>Page 86</p> <p>1 because that will -- I don't know that Paul -- I 2 don't think Paul does that, but if it were done, it 3 would raise questions in the consulting community 4 about why changes were being made to the structure 5 of the committee for particular procurements. 6 7 In the IDOT process it's the -- 8 typically it's the district, or now the regional 9 engineer and his staff, who do the initial analysis 10 in conjunction with the consulting units. IDOT's 11 a much bigger organization, covers a broader 12 geographic area. They are very -- the people who 13 are doing that initial evaluation to feed into the 14 selection committee are intimately familiar with 15 the project, the needs of the project, where the 16 project is located, and what engineers are 17 available. 18 19 It sounds to me like you have 20 many of those same characteristics with your own 21 engineers, it's just that you have a smaller staff 22 and a more focused geographic area. 23 24 In terms of minority and female opportunities or participation or efforts to create that opportunity, the Tollway has reviews done during the process, during the stage one and stage</p> <p>Page 87</p> <p>1 two process. 2 3 IDOT has, by rule -- they have a 4 goal of having at least two members of the 5 committee be a female or a minority, and it's more 6 of a goal-oriented operation as opposed to a formal 7 participation process by your minority and female 8 contracting liaison. I don't know which is better. 9 10 I don't know that there's a -- I 11 know IDOT was severely criticized probably 10 or 12 15 years ago for lack of participation by -- or 13 selection of minority and female firms, and I know 14 that's changed. So the goal seems to be working. 15 16 In terms of transparency, I don't 17 think there's anything wrong with identifying the 18 committee members after the fact. And if you have 19 a formal structure, you don't really need to do 20 that because everybody is going to know who they 21 are anyway by position. 22 23 IDOT currently publishes the ranking 24 of the top three selected firms, one, two, and three. Historically they only announce the selected candidate. The only reason they changed is because the federal highway rules governing</p>	<p>Page 88</p> <p>1 consultant selection changed and mandate that they 2 announce the top three. 3 4 I don't really see any benefit to 5 that. I don't know why you would want to announce 6 the people who were selected but didn't quite get 7 to the finish line. 8 9 I didn't go back and read the 10 federal rules to see what sort of commentary they 11 had on that. It's not something that I would 12 recommend. I just want you to know that that's out 13 there. 14 15 DIRECTOR JOHNSON: Is that an issue? 16 Because, I mean, I agree with you exactly. I mean, 17 people are going to say, Wow, you came in second 18 twice in two things, how come you were never picked? 19 20 That would kind of be detrimental to 21 that business, which wouldn't be quite fair without 22 them knowing the true background of your discussion 23 behind closed doors as to why they weren't picked. 24 25 MR. GOWER: Well, Paul's going to have a lot 26 of briefings. 27 28 So I think that you can probably 29 strengthen your process or provide a little bit 30 more structure and a little bit more transparency</p> <p>Page 89</p> <p>1 to your process if you do go ahead and put your 2 process into administrative rules or put them into 3 some other form of publication where people can 4 look at it and know what you're doing and how it's 5 being done. 6 7 I know that IDOT is in the process 8 now of looking at revamping the rules and working 9 on it. And if you wanted to do something in 10 coordination with them, it would be a good time to 11 do it. 12 13 The advantage of the rules, in 14 addition to having a permanent structure to your 15 selection process, you can put your -- you can 16 build conflict rules in. IDOT has done them. It 17 wouldn't have addressed either one of the conflicts 18 that have been a conflagration for you recently, 19 but you could address that. You could put in 20 exceptions. 21 22 There are statutory exceptions in 23 the QBS law for emergencies and for contract -- 24 small contracts. Currently it's under \$25,000, 25 which in today's world is a spit in the bucket, 26 especially for your system. 27 28 But you could put in -- give</p>
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<p style="text-align: right;">Page 90</p> <p>1 yourself the authority to do things on an emergency 2 basis if you need to get out there and get it done. 3 I suspect you do that anyway, so why not put it 4 into your procedures. 5 You could deal with privacy and what 6 is considered to be private and not public and make 7 it clear as, for example, IDOT does in its rules 8 with respect to evaluations of engineering firms. 9 You also could get input from Liz 10 and Tiffany and Bob Lane and your staff as to 11 Freedom of Information Act requirements and how to 12 go about structuring things. 13 You know, you guys got criticized 14 because you did the flip-flop on naming the 15 selection committee members, identifying the 16 selection committee members. You'd have a process 17 that you could turn to immediately, and you 18 wouldn't have to go in and research that or run the 19 risk of being accused of doing something wrong 20 because you turned around and gave the information 21 that was requested. 22 You could include provisions for 23 eligibility criteria with their eligibility 24 criteria. Or, more accurately, there are</p>	<p style="text-align: right;">Page 92</p> <p>1 situation. I know that you were criticized because 2 the chairman has a daughter who works at Omega and 3 Mr. Kovacs has a son who I believe is an engineer 4 there. 5 You know, just because you sit on a 6 public board should not mean that people who are 7 close to you are forbidden from working in a 8 particular arena. 9 And my suggestion is that -- I know 10 that Paul said he had provided a statement 11 precluding himself. I suspect the Chairman did 12 too. But I would suggest to any of you that if you 13 encounter a situation like that where you -- 14 somebody in your family is working for a consulting 15 engineering firm in some way, provide a statement 16 to the Chairman, and if you think that that 17 relationship should preclude you from being 18 involved in the selection of an engineering firm or 19 voting for an engineering contract where that firm 20 is involved or being selected, tell the Chairman 21 that you're recusing yourself from that. 22 And then when the press flares up 23 and says, Well, you've got -- or somebody. It 24 doesn't have to be the press; it could be the</p>
<p style="text-align: right;">Page 91</p> <p>1 categories that will eliminate an engineering firm 2 from consideration as specified in the IDOT rules, 3 you could address that there. 4 And there are models out there that 5 you could -- that your staff could look at. The 6 IDOT rules are at 44 Illinois Administrative Code, 7 Part 625. The FHWA Rules are at 23 CFR, Part 172. 8 I touched and you have touched 9 briefly today on a couple of instances where the 10 Tollway has been subjected to criticism arising out 11 of the consultant selection process. 12 As a practical matter, you all live 13 in a fishbowl. You spend a lot of -- you authorize 14 the expenditure of a lot of money. Expenditure of 15 a lot of money attracts a lot of attention and it 16 sometimes attracts -- and I'm not suggesting it's 17 happened with you -- but it also attracts 18 unscrupulous people who would like to find a way to 19 profit at the public trough. 20 So you've got a lot of pressures on 21 you, and you've got a lot of scrutiny, and I think 22 you got hit pretty hard for a couple of instances 23 that sound to me like they were probably defensible. 24 I'll first address the Omega</p>	<p style="text-align: right;">Page 93</p> <p>1 legislatures, you know -- flares up, you can hand 2 that statement out and say, you know, Mr. Kovacs or 3 whoever else was precluded -- took themselves out, 4 recused themselves from any involvement and gave 5 specific instruction to their staff and to the 6 Chairman that they should not be discussing that 7 matter with anyone. 8 DIRECTOR JOHNSON: But we -- in both those 9 cases we did. Because I remember in your case, 10 Bob, I chaired temporarily for us when we made the 11 decision in both. We had -- and the press was 12 there for it. 13 That's what's so disappointing. 14 The press sat there when we did that, yet they 15 still ... 16 MR. GOWER: I know. I'm just suggesting you 17 have a piece of paper that you could hand to them 18 and say -- 19 DIRECTOR JOHNSON: Proactively be prepared. 20 CHAIRMAN SCHILLERSTROM: Disclosure. 21 Disclosure is king. 22 MR. GOWER: Then with respect to the Kim 23 Morreale situation, I don't know her. I know that 24 she works in the industry. I don't know that you</p>

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<p style="text-align: right;">Page 94</p> <p>1 should be precluded from working in an industry 2 even if it's involves government contracts if your 3 husband is a state legislator.</p> <p>4 And, as a practical matter, 5 consultants are an essential part of large 6 engineering projects, because ultimately the 7 success of that project is going to turn in no 8 small part on how effectively you reach out to the 9 public, engage the public, make the public aware of 10 what you're doing, provide an opportunity for 11 public input, and incorporate that into your 12 planning process. And you guys don't have many 13 small projects; most of your projects are pretty 14 good size.</p> <p>15 So for individual projects, it is -- 16 you know, it's perfectly appropriate and would be 17 expected to have the engineering firm select that 18 consultant.</p> <p>19 Because I can tell you, just like I 20 want to pick my own lawyer, I want to pick my own 21 public relations consultant, particularly when my 22 job performance and my evaluation and ultimately 23 the success of the project that I'm working on is 24 going to depend in no small part on how good that</p>	<p style="text-align: right;">Page 96</p> <p>1 just because it was a subcontract versus a contract. 2 I know John talked a little bit 3 about the Procurement Policy Board being involved 4 in signing off. Actually, the only way -- the 5 Procurement Policy Board can conduct a review of a 6 contract, as indicated; but in this particular 7 case, the only way that the Procurement Policy 8 Board reviewed that contract is because the CPO 9 forwarded it to him because the CPO had a question 10 about whether or not this contract was indeed 11 consistent with 50-13 or not.</p> <p>12 And then the Procurement Policy 13 Board, in a public meeting, would have voted to 14 conclude that there should not be any further 15 action taken.</p> <p>16 So -- but I still -- I go back to my 17 original point which is you did everything -- they 18 disclosed, pursuant to the disclosures required in 19 50-35 of the Code, the CPO, you referred it to the 20 SPO, the SPO referred it, sent it to the CPO, CPO 21 sent it to the Procurement Policy Board, the 22 Procure Policy Board gave it a clean bill of 23 health, and then you got crushed for having a 24 person who routinely works in the industry, working</p>
<p style="text-align: right;">Page 95</p> <p>1 public relations consultant is.</p> <p>2 So in this situation, the reason 3 that Ms. Morreale -- Ms. Morreale's contract didn't 4 trip the conflict of interest provisions is because 5 she was a subconsultant, and not the consultant.</p> <p>6 There is -- Craig, you were asking 7 about it -- Member Johnson, sorry.</p> <p>8 DIRECTOR JOHNSON: That's fine.</p> <p>9 MR. GOWER: There's a provision in 10 Section 50-13 of the Procurement Code which 11 precludes somebody who's entitled to 7 1/2 percent 12 of the distributable income -- entitled to 13 7 1/2 of the profits of the company or is in the 14 executive tier, if I remember it right, and is 15 married to a state employee who has a salary of 16 more than \$106,000, they are ineligible from having 17 a state contract.</p> <p>18 And the only way to address that, 19 maybe -- we'll see, because I'm working on an case 20 right now -- but the only way to address that from 21 the EEC's perspective is to ask for an exemption 22 from the EEC. And there's an exemption procedure 23 in 50-20 of the Code.</p> <p>24 So her situation was a little closer</p>	<p style="text-align: right;">Page 97</p> <p>1 as a subcontractor, because you somehow did 2 something wrong, and you didn't even select that 3 party.</p> <p>4 Now, if you have a -- I mean, if -- 5 there's a much broader public -- there's a much 6 broader Tollway aspect, general Tollway aspect to a 7 PR contract, where in fact the Tollway is going to 8 be directing the public relations firm, then I 9 think that in that case, it really ought to be the 10 Tollway, and not the engineering firm, who selects 11 the public relations consultant.</p> <p>12 But if it's on an individual 13 project-by-project basis where the success of the 14 engineer's work is going to be impacted by the 15 public relations consultant, I would encourage you 16 to continue the practice of having the engineering 17 firm select that public relations consultant rather 18 than breaking that contract out.</p> <p>19 Selection procedures are only -- 20 consultant selection procedures are only as good as 21 the people administering them. There's always a 22 way to end run things, there's always a way that 23 things can one way or another be influenced during 24 the process.</p>

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<p style="text-align: right;">Page 98</p> <p>1 I don't believe you do this, but if</p> <p>2 you did engage in constant second-guessing of the</p> <p>3 consultant selection process, you're not going to</p> <p>4 get the best consultants because what you're going</p> <p>5 to get is you're going to get your top management</p> <p>6 rather than, you know, continually taking heat,</p> <p>7 they're just going to take the scores that are</p> <p>8 provided to them by the people who work for them</p> <p>9 and say, well, those clearly are the best, and that</p> <p>10 justifies my decision, and that's what you're going</p> <p>11 to get, rather than getting the reasoned and</p> <p>12 seasoned judgment and the consideration of the</p> <p>13 intangibles that you get from a Paul Kovacs when</p> <p>14 he's doing the review process.</p> <p>15 Again, I mentioned this earlier.</p> <p>16 You walk yourself into trouble if you're constantly</p> <p>17 restructuring your selection committee because then</p> <p>18 it's going to raise questions about why you're</p> <p>19 doing that, what selections you're trying to make</p> <p>20 sure get accomplished.</p> <p>21 I know that in the past you've had a</p> <p>22 board member sit on the selection committee. I</p> <p>23 would strongly discourage doing that. Not only</p> <p>24 does it blur the line between your responsibility</p>	<p style="text-align: right;">Page 100</p> <p>1 statement said we don't really -- QBS is governed</p> <p>2 by a completely different -- QBS selection is</p> <p>3 governed by a completely different statute.</p> <p>4 We don't really have anything to do</p> <p>5 with that QBS selection process or those contracts</p> <p>6 other than for conflict of interest disclosure</p> <p>7 provisions and the like.</p> <p>8 So I don't really know, given that</p> <p>9 statement -- and I think that -- and that's right,</p> <p>10 so I don't really know why your SPO would be</p> <p>11 reviewing your contracts or signing off on your</p> <p>12 contracts. I mean, it's at least something that I</p> <p>13 would discuss with the SPO because it's -- we have</p> <p>14 so many ethics provisions that have been put into</p> <p>15 the law to legislate against the worst possible</p> <p>16 conduct, that we have multiple layers of review,</p> <p>17 and we've made it harder and harder for people to</p> <p>18 contract with state entities and to do so in a</p> <p>19 timely fashion.</p> <p>20 So if the SPO doesn't have --</p> <p>21 isn't -- shouldn't be involved and isn't</p> <p>22 statutorily mandated or authorized to be involved,</p> <p>23 I'd consider having that conversation with the SPO.</p> <p>24 MR. DONATO: Yeah. So, Ed, as you know, when</p>
<p style="text-align: right;">Page 99</p> <p>1 as an oversight versus the operations aspects, but</p> <p>2 you all carry a whole lot of weight with employees,</p> <p>3 and you're not -- the Board member is not an equal</p> <p>4 member of that committee. The staff is going to at</p> <p>5 least pay serious attention to what that -- maybe</p> <p>6 give that Board member more weight than the normal</p> <p>7 selection committee, and it just raises the</p> <p>8 question of why you're putting a Board member on</p> <p>9 that committee.</p> <p>10 And I know some of you have an</p> <p>11 illustrious career as elected officials. Many of</p> <p>12 you don't. But in the press's eyes and in the</p> <p>13 public's eyes, you are all politicians, for better</p> <p>14 or worse. So any time that you -- you put a Board</p> <p>15 member on the selection committee, and all of a</p> <p>16 sudden the perception is that that selection</p> <p>17 process has been politicized and improper elements</p> <p>18 are being considered in the selection process.</p> <p>19 I don't -- you know, I read -- I</p> <p>20 read the statement from the legislative hearing</p> <p>21 that was tendered on behalf of Ellen Daley, who's</p> <p>22 the Chief Procurement Officer for General Services.</p> <p>23 I think it was her deputy that put it in.</p> <p>24 But basically -- John, I think that</p>	<p style="text-align: right;">Page 101</p> <p>1 Senate Bill 51 became law in July of 2010, you</p> <p>2 know, the CPO at the time would be reviewing and</p> <p>3 have jurisdiction over all of our engineering</p> <p>4 procurements, okay?</p> <p>5 And then when the CPO changed to</p> <p>6 Ellen, you know, I believe it was in July of 2015,</p> <p>7 I think she took that position that since the QBS</p> <p>8 Act is separate from the Code, you know, she said</p> <p>9 no jurisdiction really existed there.</p> <p>10 MR. GOWER: I think she's right.</p> <p>11 MR. DONATO: So we did go through that</p> <p>12 process. And it wasn't, you know, until like</p> <p>13 July 20th of 2017 when we received formal</p> <p>14 communication from that office, you know, that the</p> <p>15 SPO had a limited role. So things did change after</p> <p>16 that memo, but I think at the time the SPO was</p> <p>17 following the correct process.</p> <p>18 MR. GOWER: Okay.</p> <p>19 And, Craig, you asked the question</p> <p>20 whether you ought to be publicizing all of the</p> <p>21 conflict of interest disclosure forms.</p> <p>22 I can send you, or I'm sure Liz</p> <p>23 could send you a copy of 50-35 of the Code which</p> <p>24 has all the disclosure provisions in it. And</p>

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<p style="text-align: right;">Page 102</p> <p>1 they're extensive, and you really -- and John could 2 get you the conflict of interest disclosure form 3 which incorporates -- which incorporates those 4 disclosures into it.</p> <p>5 Take a look at it before you decide 6 you want to start sending out everyone because --</p> <p>7 MR. DONATO: So Director Johnson, on those 8 disclosure forms, if an entity has a parent which 9 owns a certain percent of the other entity, they 10 have to disclose too. The parent needs to 11 disclose, and if there's another level of 12 ownership, their disclosure are required. And so 13 it could get pretty cumbersome right away.</p> <p>14 VOICE: One firm may turn in 15 disclosure 15 forms. We've seen that.</p> <p>16 MR. GOWER: I've sure you have. So just a 17 thought. I mean --</p> <p>18 DIRECTOR JOHNSON: That's a good point. 19 Thank you.</p> <p>20 MR. GOWER: There's a tremendous amount of 21 detail.</p> <p>22 So anyway those are sort of my 23 thoughts about your consultant selection process 24 and better -- you know, good procurement practices.</p>	<p style="text-align: right;">Page 104</p> <p>1 MR. GOWER: Governor Blagojevich threw me 2 out, let's be clear. Thank you.</p> <p>3 DIRECTOR GORMAN: Thank you.</p> <p>4 CHAIRMAN SCHILLERSTROM: Well, thank you 5 again, Mr. Gower.</p> <p>6 And next I'd ask Mr. Coleman to come 7 up. And I apologize, Mr. Coleman, for making you 8 wait so long. But we, one, appreciate all the 9 service that you have given to us in the past as a 10 member of our selection committee.</p> <p>11 Mr. Coleman has over 30 years of 12 experience in the engineering industry. He's 13 retired from the University of Illinois, where he 14 had many duties, from being a faculty member, to an 15 administrator. And he currently works or serves at 16 both IDOT and the Tollway on the selection 17 committees, and he is our outside representative.</p> <p>18 He has a Ph.D. in civil engineering 19 from Michigan State University.</p> <p>20 So thank you very much for being 21 with us today and for what you've done in the past, 22 and we look forward to hearing your nuggets of 23 information today that you're going to give to us.</p> <p>24 So, Mr. Coleman, the floor is yours.</p>
<p style="text-align: right;">Page 103</p> <p>1 It sounds to me like -- you know, I heard a pretty 2 extensive discussion. It's pretty impressive what 3 you do now. There are a couple tweaks that you 4 could make if you wanted to.</p> <p>5 But those are my thoughts. I'd be 6 happy to answer any questions, or any followup.</p> <p>7 CHAIRMAN SCHILLERSTROM: Yeah, any questions 8 for Mr. Gower?</p> <p>9 (No response.)</p> <p>10 Well, thank you. I mean, very, very 11 helpful. And we may -- you know, as we go through 12 this, we may come back to you. But we greatly 13 appreciate, one, you being here today, taking a 14 look at our operations; and, two, making candid 15 recommendations. It's very helpful.</p> <p>16 MR. GOWER: Having once been involved in 17 public policy, just getting a little taste of it 18 from time to time is really wonderful. So thank 19 you.</p> <p>20 VOICE: I thought you were going to say it 21 reminds you of why you got out.</p> <p>22 (Laughter.)</p> <p>23 CHAIRMAN SCHILLERSTROM: Maybe we'll give you 24 a taste again in a little while.</p>	<p style="text-align: right;">Page 105</p> <p>1 MR. COLEMAN: Thank you, sir. Thank you, 2 Mr. Chairman and Board members.</p> <p>3 It's my pleasure to be here this 4 morning and to be able to share my background and 5 share my perspective on what it's been like to be a 6 public member of both the IDOT and the Tollway 7 selection committees, and to be open with you to 8 address any questions or concerns that you might 9 have.</p> <p>10 I did not have any specific prepared 11 remarks for this morning. I wanted it to be and I 12 understood it to be more of a conversation between 13 myself and the Board and other staff members here.</p> <p>14 I'd just like to open by saying that 15 from my experience in the engineering industry from 16 being a consultant many years before I came to 17 Illinois and serving as a consultant to the State 18 of Michigan, I'm very familiar with the QBS process.</p> <p>19 Upon coming to the State of Illinois 20 and serving as a faculty member in engineering and 21 teaching engineering design courses, it's very 22 important and critical that the staff people, the 23 engineering firms that you hire have the best 24 personnel designing your highways and bridges for</p>

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<p style="text-align: right;">Page 106</p> <p>1 the reasons of safety. And that's why the QBS Act 2 is stated the way it is, because it's of utmost 3 importance that you are selecting the best firms to 4 provide the safest and most effective and efficient 5 transportation system that can be designed within 6 the budget parameters that you've established.</p> <p>7 With my experience within the 8 university as both a faculty member and an 9 administrator, and from the administrative roles 10 that I've had within the University of Illinois 11 system, I've chaired QBS selection committees, I've 12 written criteria for the selection of engineering 13 firms; I've been involved in the process from being 14 a vendor, to being an administrator administering 15 the QBS process on behalf of the university.</p> <p>16 I was requested to serve as a 17 public member of the IDOT Architecture and 18 Engineering Professional Services selection 19 committee in 2009. And one of my roles was to 20 meet -- as Mr. Gower expressed, to bring diversity 21 to that committee, but also to bring -- obviously 22 the requirements were that you have to have a 23 background in civil engineering and transportation, 24 which I fortunately had.</p>	<p style="text-align: right;">Page 108</p> <p>1 cases, with the firms that are being -- that you're 2 reviewing, that you've reviewed for potential 3 hiring.</p> <p>4 And it's very, very important that 5 those conversations are extremely candid and 6 extremely honest because you're trying to make sure 7 that you, in your role, are putting forth the best 8 firm that can do that job within the time frame and 9 the scope that's available and that the staff has 10 spelled out.</p> <p>11 And as an engineer, as a practicing 12 engineer and a consulting engineer, one of the most 13 important things to recognize is the scope, budget, 14 and timeline. And if you have firms that are not 15 able to do that design work within those time 16 frames, within those constraints, and do it in a 17 professional manner, and deliver high quality 18 plans, then you're going to be at risk. And you're 19 going to be at risk for all the typical things that 20 go wrong with projects, with schedule being off, 21 budget overruns, and, mostly importantly, a 22 deterioration of safety.</p> <p>23 So it's absolutely important that as 24 those discussions take place, that there's nothing</p>
<p style="text-align: right;">Page 107</p> <p>1 Obviously from my education from 2 Michigan State University, I was a civil engineer, 3 highway, public side, as well as aviation side. 4 Served as a subconsultant to the major 5 transportation engineering firms in the state of 6 Michigan prior to coming to Illinois and starting 7 my faculty career.</p> <p>8 So I have a very broad base of 9 knowledge with respect to transportation, all modes 10 of transportation, and obviously being involved in 11 the QBS process with IDOT since 2009.</p> <p>12 The -- I was asked to become a 13 member of the Tollway selection committee in 14 approximately 2012. I think I was asked in part 15 because of the service that I had provided IDOT and 16 the consistency and the professionalism that has to 17 go with being a selection -- a member of that 18 selection committee.</p> <p>19 The question has often come up as to 20 why are those committee meetings held in private.</p> <p>21 And let me just say that from a 22 member of those committees, you often get into 23 discussions about the qualities, capabilities, 24 experience, expertise, financial issues in some</p>	<p style="text-align: right;">Page 109</p> <p>1 but candor, nothing but candor in terms of making 2 sure that the best firms are coming forward to do 3 that work.</p> <p>4 And that involves everything that's 5 related to the criteria that's published in those 6 bulletins with respect to making that selection.</p> <p>7 I would like to just stop at this 8 point and respond to questions that you may have, 9 and go forward.</p> <p>10 DIRECTOR JOHNSON: What do you think about 11 disclosing who's on the committee?</p> <p>12 MR. COLEMAN: I think it's perfectly fine to 13 disclose who's on the committee. The industry, the 14 engineering industry is going to find out who's on 15 the committee anyway. If you're proposed by the 16 Illinois Society of Professional Engineers to be on 17 the selection committee, most of the engineering 18 firms are members of ISPE.</p> <p>19 If ACEC is making the recommendation 20 who sits on the selection committee, most of those 21 firms are members of ACEC, so they're going to know 22 who's on the selection committee. Not a big deal.</p> <p>23 They may not always know internally 24 from your staff perspective who's on the committee,</p>

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<p style="text-align: right;">Page 110</p> <p>1 but at that eventually becomes public knowledge 2 anyway. 3 So whether it's made public before 4 or after, during, it doesn't make any difference; 5 the industry will know who's sitting on those 6 selection committees. 7 CHAIRMAN SCHILLERSTROM: The setup that we 8 have, since you're involved in this and you go 9 through it, and you're on the outside, we have 10 Tier 1, Tier 2, and Tier 3. 11 In particular, our Tier 1, it's not 12 completely an objective process where they come in 13 and just check the box and say that they've met 14 this criteria, they've met this criteria. There's 15 a fair amount of subjectivity involved in it. 16 Do you think that the Tier 1 process 17 functions well the way it is, or could we make 18 changes to it that -- I guess it goes back to 19 that -- I want to be careful how I say this -- the 20 information that you get on Tier 3 is the 21 information that you use to make the selection. 22 Do you think that you're getting the 23 information that you need from Tier 1 so that you 24 can have all the information you need to make the</p>	<p style="text-align: right;">Page 112</p> <p>1 that to me. 2 So, yes, that information is 3 entirely visible to me, and we use that; that's a 4 part of the information packet that I receive, both 5 Tier 1 and Tier 2. 6 CHAIRMAN SCHILLERSTROM: So do you think 7 Tier 1 is working okay, then? Or would you 8 recommend any changes? And that may be something 9 you want to think about as to how we address 10 Tier 1. And -- that's part one of my question. 11 Part two would be, do we do it 12 pretty much consistently with the way IDOT does it, 13 or do we do it differently when you took at Tier 1 14 and Tier 2? 15 MR. COLEMAN: What I see that I value and 16 appreciate about the way in which the Tollway 17 performs Tier 1 is that there's total transparency 18 in terms of what I see in terms of comments, 19 feedback, scoring, ranking, et cetera, et cetera. 20 And I find that to be very helpful 21 and very useful because when I took at Tier 1 and 22 then I compare that to Tier 2, you know, it gives 23 me a real sense of whether, you know, there's been 24 any issues with Tier 1, whether there's any bias in</p>
<p style="text-align: right;">Page 111</p> <p>1 right decision? I'm kind of beating around the 2 bush, but hopefully you know. Is Tier 1 working -- 3 MR. COLEMAN: I understand your question. 4 Fortunately, the Tollway process 5 provides all the information from Tier 1, all the 6 feedback from the staff that are given on a 7 particular firm in Tier 1. So I see all that. 8 CHAIRMAN SCHILLERSTROM: So you can review 9 it. 10 MR. COLEMAN: I can review it. 11 CHAIRMAN SCHILLERSTROM: So if you disagree 12 with something, some conclusion that was drawn on 13 Tier 1, you have enough information to know if you 14 disagree or agree with it. 15 MR. COLEMAN: Oh, yes. Oh, yes. Definitely. 16 Definitely. And that has played out in various 17 selection committee meetings, where as a public 18 member, I've spotted something, comments or a trend 19 in Tier 1, where I've raised that question say, 20 Hey, what's going on here? Why is reviewer one and 21 two consistently negative on these firms, okay? 22 And let's talk about how that's impacting what 23 the scores are and whether that's real or not. 24 Somebody needs to talk to me about that and explain</p>	<p style="text-align: right;">Page 113</p> <p>1 Tier 1, whether experience of the firm is playing 2 out more so. So it's very helpful to have the 3 Tier 1. 4 Compared to IDOT, I don't see the 5 Tier 1 reviews. 6 CHAIRMAN SCHILLERSTROM: Oh, you don't. 7 MR. COLEMAN: I do not see those. And so 8 what I'm seeing with IDOT is a pure ranking of 9 firms from one to whatever the rank number could 10 be. But typically if it's federal moneys are 11 involved, I'm looking at a cutoff of anywhere from 12 one to ten firms, and if state money is involved, 13 then there's no pure cutoff, but I still have a 14 ranking that I can look at to determine. 15 So the key difference between the 16 Tollway and IDOT is that with IDOT, I see all the 17 Tier 1 scoring and ranking and feedback, and 18 particularly the textual feedback, it's important. 19 With IDOT, all I see is the Tier 2 20 information, and I'm dependent on that region 21 engineer explaining to me why his engineering staff 22 may have rated firms, you know, in the top three, 23 four, five, or six. 24 And so that part is different</p>

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<p style="text-align: right;">Page 114</p> <p>1 between the two systems.</p> <p>2 The other part that is different</p> <p>3 between --</p> <p>4 CHAIRMAN SCHILLERSTROM: And it sounds like</p> <p>5 you're more comfortable with the way we do it.</p> <p>6 MR. COLEMAN: Yes, I am. I am. Because it's</p> <p>7 more transparent.</p> <p>8 DIRECTOR JOHNSON: So what you've worked</p> <p>9 with -- and I'm sorry, Bob --</p> <p>10 CHAIRMAN SCHILLERSTROM: No, go ahead.</p> <p>11 DIRECTOR JOHNSON: -- Michigan, IDOT, here,</p> <p>12 and all this, do you feel that our system is</p> <p>13 probably the most open, transparent, that you've</p> <p>14 been involved with?</p> <p>15 MR. COLEMAN: Oh, undoubtedly.</p> <p>16 Undoubtedly. Unquestionably. Unquestionably.</p> <p>17 CHAIRMAN SCHILLERSTROM: Interesting.</p> <p>18 Go ahead. We interrupted you.</p> <p>19 MR. COLEMAN: So the other difference between</p> <p>20 IDOT and the Tollway in terms of your procedures is</p> <p>21 that -- and this is a positive for IDOT -- is that</p> <p>22 we do have a published evaluation of all the firms</p> <p>23 that have submitted on that bulletin. So IDOT</p> <p>24 maintains a database of their evaluations by staff</p>	<p style="text-align: right;">Page 116</p> <p>1 during the selection committee --</p> <p>2 DIRECTOR JOHNSON: So you're saying by having</p> <p>3 it already published, it kind of speeds up the --</p> <p>4 you've got a background, that you don't have to go</p> <p>5 through during the stage three --</p> <p>6 MR. COLEMAN: Right, right.</p> <p>7 CHAIRMAN SCHILLERSTROM: But this is just</p> <p>8 passed on to you orally, there's not a written</p> <p>9 history that you can review.</p> <p>10 MR. COLEMAN: Correct, correct, correct.</p> <p>11 CHAIRMAN SCHILLERSTROM: And I take it -- I</p> <p>12 presume with IDOT that this written history is a</p> <p>13 confidential document -- documents, and remains</p> <p>14 that way for the protection of the engineering</p> <p>15 firms, which Mr. Gower talked about that.</p> <p>16 MR. COLEMAN: I'm not entirely certain that</p> <p>17 it's confidential, sir. It comes to me as an</p> <p>18 extensive packet of information. And so that</p> <p>19 listing of firms that are ranked excellent or good</p> <p>20 is just one of the key documents in my evaluation</p> <p>21 packet that I have to go through, and as I'm</p> <p>22 ranking -- as I'm performing -- one of the</p> <p>23 procedures is that as you go through and you begin</p> <p>24 to sort of filter out those firms that you think</p>
<p style="text-align: right;">Page 115</p> <p>1 of how each of the firms have performed on recent</p> <p>2 bulletins, okay?</p> <p>3 The challenge is that that is not</p> <p>4 always as up to date, as a selection committee</p> <p>5 member, as I would like to be, okay? Because you</p> <p>6 can -- the information is that on such-and-such a</p> <p>7 bulletin, let's say 160 or 167 they received good</p> <p>8 marks, on 170 they received good marks, on 175</p> <p>9 they received okay marks. But we may be selecting</p> <p>10 something from bulletin 190. So what happened</p> <p>11 between the bulletins 175 and 189? I don't know</p> <p>12 that. Okay?</p> <p>13 But I still have some information</p> <p>14 that says this is a good performing firm over some</p> <p>15 period of time.</p> <p>16 With the Tollway, there isn't that</p> <p>17 evaluation, written eval- -- that list of their</p> <p>18 evaluations over time. And so the conversation</p> <p>19 becomes more dynamic in the Tollway meeting with</p> <p>20 respect to how has this firm actually performed</p> <p>21 and --</p> <p>22 DIRECTOR JOHNSON: But you can get through --</p> <p>23 during the meeting itself.</p> <p>24 MR. COLEMAN: Yes. Yes. That's taking place</p>	<p style="text-align: right;">Page 117</p> <p>1 are coming to the top, then you go to this form,</p> <p>2 this document that says, well, how have they</p> <p>3 performed in the past? Just to make sure that what</p> <p>4 you're looking at in terms of how you think they</p> <p>5 are doing, has that been historically true as well.</p> <p>6 CHAIRMAN SCHILLERSTROM: Paul, you want to</p> <p>7 say something?</p> <p>8 MR. KOVACS: So the only comment I was going</p> <p>9 to make on that is on one of the -- the Tier 1 and</p> <p>10 Tier 2 summary, we do try to highlight when the</p> <p>11 prime firm was last selected on a bulletin or on an</p> <p>12 IDOT bulletin -- on a Tollway bulletin or an IDOT</p> <p>13 bulletin, just to give you some idea, you know,</p> <p>14 this firm has, you know, been selected before, and</p> <p>15 sometimes we see there's been a long period of time</p> <p>16 between their last --</p> <p>17 CHAIRMAN SCHILLERSTROM: There's some</p> <p>18 historical narrative on there.</p> <p>19 MR. KOVACS: We don't give the full history,</p> <p>20 though. It's just the last selection.</p> <p>21 CHAIRMAN SCHILLERSTROM: Any general</p> <p>22 recommendations that you would make for us, either</p> <p>23 if you have them today or you can think about them?</p> <p>24 Anything that we can do to make ourselves better?</p>

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<p>Page 118</p> <p>1 MR. COLEMAN: I think having some 2 documentation of how firms have performed, some 3 evaluation of how the firms have performed, and -- 4 on previous projects. Because sometimes, you know, 5 we often don't have that information ahead of time, 6 and that's something that's coming forward during 7 the meeting.</p> <p>8 The overall information that the 9 Tollway provides is very good, is very clear. It's 10 easy to understand. It comes in, typically in a 11 very timely manner, and so you have sufficient time 12 to actually work through the information and 13 utilize the information.</p> <p>14 The Tollway has begun to -- most 15 recently has begun to automate some of that 16 process, where it's now all contained in the 17 computer system, and so you're using a computer 18 system much more so than paper to review that 19 information and go back and forth. And that's 20 helpful in many ways. I think it saves some time. 21 Puts a little bit of eye strain because you're in 22 front of the screen a little bit more, but other 23 than that, I think it's a very excellent approach.</p> <p>24 DIRECTOR JOHNSON: So overall you think the</p>	<p>Page 120</p> <p>1 additional ideas, you know, feel free to let us 2 know.</p> <p>3 We greatly appreciate your insight 4 and all of the participation and help that you've 5 given the Tollway in the past, and we look forward 6 to continuing to work with you. So thank you very 7 much.</p> <p>8 MR. COLEMAN: I appreciate it.</p> <p>9 CHAIRMAN SCHILLERSTROM: So before -- I'll 10 find my agenda here.</p> <p>11 Liz -- Liz Gorman, did you want to 12 add anything?</p> <p>13 MS. GORMAN: No, I just want to thank Chief 14 of Procurement John Donato, Chief of Engineering 15 Paul Kovacs for your testimony and the details of 16 it, and I know you'll keep yourselves open to the 17 continued process.</p> <p>18 Thank you to Fred Coleman. It's 19 nice to finally meet you. I mean, you've come 20 highly recommended, and your years of service 21 really are commendable, and thank you.</p> <p>22 To Ed Gower -- I think he stepped 23 out already -- but his testimony was well received 24 as well. So thank you for your help, and I know</p>
<p>Page 119</p> <p>1 system the Tollway's got in place is transparent, 2 is collaborative, is a good system we have in 3 place. When you compare like IDOT and the other 4 ones, you're very --</p> <p>5 MR. COLEMAN: Yes, yes.</p> <p>6 And I think it's very helpful that 7 the IDOT District 1 administrator sits in on the 8 Tollway meetings because, between the two of us, 9 we're sort of a consistent link between the two 10 agencies in terms of how firms are being looked at, 11 how firms are performing.</p> <p>12 And that information comes forward. 13 You know, IDOT will say, well, you know, this firm, 14 you know, may not have performed as well for us as 15 we would have liked, but the firm performed very 16 well for the Tollway, and vice versa. And so that 17 kind of dialogue and exchange is important and I 18 think very valuable to the process.</p> <p>19 CHAIRMAN SCHILLERSTROM: Any other questions 20 anybody has for Mr. Coleman?</p> <p>21 (No response.)</p> <p>22 Well, once again, thank you. And as 23 we move forward over the next couple of weeks, if 24 you have any -- well, anytime if you have any</p>	<p>Page 121</p> <p>1 that you'll be open to any questions, even if we 2 don't have them today, for follow-up. So I 3 appreciate that.</p> <p>4 CHAIRMAN SCHILLERSTROM: And just from the 5 Directors who are members of the committee, any 6 questions or discussion or any -- anything that you 7 would like to add today?</p> <p>8 DIRECTOR JOHNSON: Mr. Chairman, if I can, I 9 know we're going to have further meetings, but I'll 10 be honest with you, what I heard today -- and, 11 Paul, I know you've gotten some heat over the 12 past -- recently on all this stuff -- I'll tell 13 you, I am more impressed today with how the Tollway 14 handles all this stuff, all of it.</p> <p>15 I'll be honest with you, I think all 16 we're going to do is nip at the edges because I 17 think right now you guys do a phenomenal job. You 18 really do. This is coming from a guy that works 19 with procurement and everything else for 25, 20 27 years I've done it. This Tollway does an 21 unbelievable job. I think it's transparent. I 22 think it's checked, double checked, triple checked 23 in some cases. You guys truly do a phenomenal -- 24 so I'm telling you -- I know it's important we do</p>

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MEETING, on 08/15/2018

<p>Page 122</p> <p>1 this, Mr. Chairman, but I tell you, I feel we're in 2 great shape. I really do. 3 And even this gentleman here, he 4 just mentioned, he works with all of them, we do a 5 nice job here as far as meeting the requirements 6 and being open and honest with everyone on this. 7 So, Paul, on behalf of me as a 8 Director, I want to commend you and your department 9 and your staff for the job you do. You really do 10 an outstanding job. Thank you. 11 CHAIRMAN SCHILLERSTROM: I don't disagree 12 with anything that you say. As a matter of fact, I 13 do agree. I do agree. But I also think that it's 14 incumbent upon all of us always to look for ways to 15 be better. 16 And sometimes when we're in doing 17 our job on a day-to-day basis, we don't forget 18 that, but we don't focus on it. So I think this is 19 a good exercise to really focus on that. 20 Our goal is to be the best there is, 21 and to do that, you always have to look for 22 opportunities to do that. 23 So I want to thank all of our 24 speakers today. Thank all of our staff for being</p> <p>Page 123</p> <p>1 here, and thank all of the Directors. 2 We will have two more meetings. We 3 will work diligently today to schedule the one next 4 week so that it works for everyone. And, as I 5 said, we would -- you know, we will come back, and 6 as you look at your information, we will ask 7 questions and come back to what we've discussed 8 today. 9 Our focus next week will be a little 10 bit more on how diversity works with our selection 11 process and our consultants, because, as you all 12 know, that's very, very important to the Tollway 13 and to this Board, so we want to make sure that 14 that is in the mix as we talk about things. And I 15 also think that we need to talk about our conflict 16 of interest policy. 17 So you can start thinking now about 18 those particular items, with the caveat that we're 19 open to discussing other things also. 20 So, having said that, is there any 21 other unfinished business? I think it's difficult 22 to be unfinished business when this is the first 23 meeting of the committee, but there may be. 24 So is there any unfinished business</p>	<p>Page 124</p> <p>1 to come before the committee? 2 (No response.) 3 Hearing nothing, is there any new 4 business to come before the committee? 5 (No response.) 6 We have nothing for executive 7 session today. So unless there's something else 8 from any of the members of the committee, I would 9 entertain a motion to adjourn at this time. 10 DIRECTOR STEPHENS: So moved. 11 DIRECTOR JOHNSON (?): Second. 12 CHAIRMAN SCHILLERSTROM: All right. It's 13 been moved and seconded. 14 Hearing no discussion on this, all 15 those in favor of adjourning as moved, please say 16 aye. 17 (Chorus of ayes.) 18 Opposed? 19 (No response.) 20 We are adjourned. 21 (The hearing was adjourned at 22 2:15 p.m.) 23 24</p> <p>Page 125</p> <p>1 2 REPORTER'S CERTIFICATE 3 I, Cynthia Cancel Sobolewski, do hereby 4 certify that I transcribed in shorthand the 5 proceedings of said hearing as provided in 6 electronic format. 7 8 IN WITNESS WHEREOF, I have hereunto set my 9 hand and affixed my seal of office at Chicago, 10 Illinois, this 27th day of September 2018. 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>Illinois CSR No. 084-3543</p>
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1
2 THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
3

4 TOLLWAY AD HOC OPERATIONS
5 REVIEW COMMITTEE
6
7
8

9 Tollway Headquarters
10 2700 Ogden Avenue
11 Downers Grove, IL 60515

12 Thursday, August 23, 2018
13 9:30 a.m.

14 PRESENT:

15 Bob Schillerstrom, Chairman
16 Elizabeth Gorman, Executive Director
17 Neli Vazquez Rowland, Director
18 Bradley Stephens, Director
19 Craig Johnson, Director
20 James J. Banks, Director
21 Corey Brooks, Director

22 Reported by: Donna M. Urlaub
23 CSR No. 084-000993
24

<p style="text-align: right;">Page 2</p> <p>1 CHAIRMAN SCHILLERSTROM: I would call the 2 meeting to order for the Tollway Ad-Hoc Operations 3 Review Committee, and I would ask everybody to take 4 their place. 5 We will dispense with the pledge, 6 since we just did it with the Board meeting. And I 7 would ask the clerk, who's moved on me, to please 8 call the roll. 9 CLERK: Director Banks. 10 DIRECTOR BANKS: Here. 11 CLERK: Director Brooks. 12 DIRECTOR BROOKS: Here. 13 CLERK: Director Johnson. 14 DIRECTOR JOHNSON: Here. 15 CLERK: Director Stephens. 16 DIRECTOR STEPHENS: Here. 17 CLERK: Mr. Chairman. 18 CHAIRMAN SCHILLERSTROM: Here. 19 CLERK: Mr. Chairman, we have a quorum. 20 CHAIRMAN SCHILLERSTROM: Very well. 21 All right. The first item that we 22 have is public comment. At each of our meetings we 23 provide a period of public comment where we can 24 hear from the public speak to us.</p>	<p style="text-align: right;">Page 4</p> <p>1 ourselves a better operating organization. 2 And also, I think part of the 3 purpose of these meetings is to explain how our 4 operations work, in certain cases why our 5 operations are what they are; in other words, we 6 have laws and regulations that we have to follow. 7 But knowing that we follow the 8 laws and the regulations, we also recognize the 9 opportunity that a committee like this presents to 10 look at things and see is there something that we 11 could do better. So I appreciate everybody's 12 investment of time and effort in this. 13 Today we are going to essentially 14 take testimony or to hear from people who deal with 15 us. We want to talk a little bit more about 16 procurement today, and then also we want to start 17 talking a little bit about conflict of interest 18 policies. 19 We kind of planned after today's 20 meeting that we would have another meeting next 21 week where we may -- we may have additional 22 conversation about procurement, conflict of 23 interest, and also I'll perhaps talk about some 24 hiring.</p>
<p style="text-align: right;">Page 3</p> <p>1 We would ask, if you do wish to 2 speak, we'd like you to fill out a yellow card with 3 your name on it so that we can get back to you with 4 the answer to any questions; but if you don't want 5 to fill out that card, we're still going to let you 6 speak. 7 I'd ask you to go up there and speak 8 into the microphone so we can hear you, and confine 9 your remarks to about three minutes. 10 I don't think we have any yellow 11 cards, do we? Do we have any yellow cards? 12 All right, we don't have any yellow 13 cards. 14 Is there anybody wishes to address 15 us? 16 (No response.) 17 Okay. Hearing nothing, we will move 18 on. 19 This is the second meeting of the 20 Ad-Hoc Operations Review Committee. 21 I want to take this opportunity to 22 thank all of you, the staff and people from the 23 outside, who have come to help us take a look at 24 our operation and changes that we can make to make</p>	<p style="text-align: right;">Page 5</p> <p>1 Today we are happy to have with us 2 Luis Montgomery and Eileen Chin. They're going to 3 talk to us about procurement, but they're going to 4 also talk to us a little bit about how our 5 diversity program is impacted and does impact 6 procurement. 7 As you all know, we're very focused 8 on diversity and providing opportunities for all 9 kinds of firms, whether they be minority, women, or 10 veteran owned. And obviously, in doing that, that 11 brings another variable into the equation which we 12 try -- we try and always look at. 13 Luis is the president of 2 -- I have 14 to put on my glasses -- 2IM, which specializes in 15 storm water management; and Eileen is president of 16 R.M. Chin, a firm that provides project management, 17 construction management, and engineering services. 18 Both firms have worked extensively 19 for the Tollway, and our Diversity Department 20 invited them here today to provide a different 21 perspective, as I said, on our procurement process, 22 that being from the minority vendor. 23 These two firms have extensive 24 experience working our engineering, procurement,</p>

<p style="text-align: right;">Page 6</p> <p>1 and diversity departments, and I'd like to thank 2 them for being here today; I'd like to thank them 3 for the work they do for the Tollway; and thank 4 them both for their willingness to come here and 5 talk to us a little bit today. 6 So I'd ask them to come forward and 7 sit in the two hot seats. 8 Thanks Luis. Thanks Eileen. 9 Well, thank you. And I'm going to 10 sort of turn the meeting over to you guys at this 11 time because I know you wanted to make a little bit 12 of a statement, and as we go on, we may ask you 13 some questions and things like that. 14 MR. MONTGOMERY: Wonderful. Thank you. 15 You go first. 16 MS. CHIN: Thank you, Chairman, for that 17 introduction, and thanks to the Board and staff for 18 having me. I'm grateful for this opportunity to 19 talk about our firm's experience. 20 Let me give you first a little 21 background on R.M. Chin and our relationship with 22 the Tollway. 23 R.M. Chin & Associates was started 24 by my father in the early '90s. We're a family-</p>	<p style="text-align: right;">Page 8</p> <p>1 proposal process works, because that was all new to 2 us. 3 So through our discussions with the 4 staff at the time, we learned that because of the 5 magnitude of this program, of the Open Road 6 Tolling, they needed some additional project 7 management services to augment Tollway project 8 staff at the time. 9 So when a solicitation was 10 advertised for project management, upon request, 11 we took a chance and submitted as a prime, and 12 included some other M and WBE firms who had done 13 work with the Tollway at the time to help booster 14 our team. 15 While we had never worked with the 16 Tollway, we were optimistic because it was a 17 qualifications-based selection. We knew that 18 during that process the selection would look fairly 19 at the other project management services we 20 provided on other relevant projects. 21 So the good thing for us was that we 22 were no stranger to the QBS process because we do 23 business with a number of other public agencies who 24 are mandated to use this process as well.</p>
<p style="text-align: right;">Page 7</p> <p>1 owned company. 2 I joined the company in 2004, and 3 during that time, 80 percent of our revenue came 4 from one client. And, you know, and as any good 5 business owner knows, you have to diversify your 6 revenue base to be sustainable. 7 And we knew we wanted to expand into 8 the transportation sector, particularly in the 9 heavy highway arena. We had not done any work 10 there prior to me joining the firm. 11 And so there were several reasons 12 why we chose to target doing business with the 13 Tollway in 2005. One was the massive Open Road 14 Tolling program was well under way that provided a 15 number of opportunities for firms of all sizes. 16 Two, the Agency recognized the 17 MBE -- our MBE certifications, while most other 18 agencies just recognized the DBE status, which we 19 did not have at the time. 20 Three, and also this is the -- one 21 of the most important -- was the willingness of the 22 staff at the time to speak with us, to talk about 23 the program, to talk about the needs of what -- the 24 firms that they looked for, the criteria, how the</p>	<p style="text-align: right;">Page 9</p> <p>1 R.M. Chin does business with the 2 City of Chicago, other state agencies, as well as 3 other public agencies outside of Illinois. 4 In our experience with QBS here at 5 the Tollway, this process has been far superior. 6 One is that the information is 7 provided in advance to the industry of upcoming 8 projects. And I emphasize that because, as 9 business owners, we want to be able to plan for 10 what work to pursue. 11 Two, there's a real -- a great deal 12 of transparency in the selection process. The 13 staff has done a tremendous job of providing an 14 overview of how the process is -- how our 15 submittals are evaluated, what they look for; and 16 particularly what is most important is feedback 17 after our proposals, after the selections, after 18 the awards, because as, you know, as we submit our 19 proposals, it's also important for us to know why 20 we didn't win so that we could be -- we can learn 21 from that experience. 22 So knowledge is key when we're 23 pursuing a lot of this work. And so knowing what 24 types of projects are forthcoming, their costs, the</p>

<p style="text-align: right;">Page 10</p> <p>1 requirements, if there's particular challenges that 2 we as professional services need to address, all 3 of those things are -- help us produce better 4 submittals and, frankly, more exciting for staff to 5 read. 6 What's also really helpful to us is 7 that the staff -- the Tollway produces a look-ahead 8 schedule. So this look-ahead schedule gives 9 industry and firms like ours an insight of what is 10 going to be put on Professional Service Bulletins 11 throughout the year. 12 So, again, that up-front information 13 is extremely helpful when we're trying to network 14 with other firms, and especially firms of our size 15 who can't -- you know, may not be positioned to 16 pursue larger projects, this gives us an advance 17 notice so that we can start, you know, networking 18 with primes and be able to strategize of how we 19 could maybe pursue the work together. 20 So the Tollway does do an excellent 21 job of informing the AE community through their 22 various public meetings where the, again, all of 23 the information is available with respect to when 24 procurements are coming out, the selection process,</p>	<p style="text-align: right;">Page 12</p> <p>1 leader not only within my organization, but in the 2 industry. 3 So I would suggest that the 4 selection and the qualifications-based criteria, 5 take that into account when reviewing the submittals 6 and reviewing the staff that are proposed on these 7 submittals. 8 So in case you're curious, we did 9 win that contract back in 2005, and it was the 10 start of our relationship with the Tollway. But it 11 was also the catalyst that began expanding us into 12 that new sector of transportation. 13 So it's an opportunity that I am 14 forever grateful for, and, if you know me, I try to 15 tell that story as often as possible. 16 Since that first opportunity, we've 17 done a lot of -- we've submitted with the Tollway 18 as either a prime or subconsultant. 19 Most recently we were fortunate to 20 be part of a Partnering for Growth team, where we 21 played a substantial role in one of the largest CM 22 projects as part of Move Illinois thus far. 23 So what did this do for us? It 24 allowed us to -- well, first of all, for my staff</p>
<p style="text-align: right;">Page 11</p> <p>1 and then just the availability of the staff. 2 So, you know, we all know -- as a 3 business owner, you know, we're always look at our 4 operations, and when -- and it's forever changing. 5 You know, our industry is always changing and our 6 workforce is changing. So it's a good practice to 7 review business operations. 8 So I applaud the Chairman and the 9 Board and staff for taking a look at these -- at 10 your operations. 11 You know, one of the challenges that 12 firms of my -- our size, and even larger firms, are 13 facing in the industry is workforce. Because, you 14 know, let's be candid, a lot of our current leaders 15 in the industry, you know, we're all aging, and we 16 need to continue to be cultivating that next 17 generation of leaders. 18 So this Move Illinois Program is one 19 that is a unique opportunity to expose mid level 20 staff to these major infrastructures on projects 21 that are going to be coming up. I view this, 22 for my staff, as a once-in-a-career-building 23 opportunity and, you know, I tell them this is your 24 opportunity to learn and try to grow to be a future</p>	<p style="text-align: right;">Page 13</p> <p>1 to be exposed to such a large project. It was the 2 biggest that we had taken at that time. I had six 3 staff members on that project. I still have them 4 on my team today, which means that that was a 5 capacity building moment for me. I can use their 6 resumes, I can use their experience and our firm 7 experience to pursue similar work on similar type 8 of projects. 9 Today our transportation sector, 10 which is, in my mind, still emerging, accounts for 11 about 30 percent of our revenue, so -- with most of 12 the revenue from that coming from the Tollway. 13 So obviously this organization plays 14 a huge role in my firm. So I want to thank you 15 for, you know, welcoming R.M. Chin, and look 16 forward to continuing to serve you. 17 CHAIRMAN SCHILLERSTROM: Well, thank you. 18 Thank you for the work that you do for the Tollway; 19 thank you for being here today. 20 MS. CHIN: Absolutely. 21 CHAIRMAN SCHILLERSTROM: Are there any 22 questions from the members of the Committee for 23 Ms. Chin? 24 DIRECTOR JOHNSON: If I may?</p>

<p style="text-align: right;">Page 14</p> <p>1 CHAIRMAN SCHILLERSTROM: You may.</p> <p>2 DIRECTOR JOHNSON: Any recommendations you'd</p> <p>3 make to us as far as maybe changes or ways to</p> <p>4 improve the way we handle the whole process? The</p> <p>5 hiring and --</p> <p>6 MS. CHIN: You know, so I think the</p> <p>7 Mentor/Protegee Program is obviously a very good</p> <p>8 one. One of the things -- and the Partner for</p> <p>9 Growth.</p> <p>10 One of the things that -- you know,</p> <p>11 as M and WBE firms, there's a lot of new firms that</p> <p>12 are doing business with the Tollway, and that's</p> <p>13 great.</p> <p>14 The challenges continue to have us</p> <p>15 all be sustainable and continue to get the work,</p> <p>16 right? So one-time shot on a project is not always</p> <p>17 something that's going to be sustainable from a</p> <p>18 business perspective for them.</p> <p>19 I would also take a look at the</p> <p>20 participation levels. You know, if you give a firm</p> <p>21 one or two percent, depending on the value of that</p> <p>22 contract, it's great that they've been given that</p> <p>23 exposure, but it doesn't necessarily give us the</p> <p>24 sustainability to, you know, staff.</p>	<p style="text-align: right;">Page 16</p> <p>1 DIRECTOR JOHNSON: But ours were embracing</p> <p>2 and --</p> <p>3 MS. CHIN: Yes, absolutely.</p> <p>4 DIRECTOR JOHNSON: Last thing: You talked</p> <p>5 earlier about transparency. You deal with other,</p> <p>6 obviously, government entities and all this.</p> <p>7 How would you say you felt the</p> <p>8 Tollway's transparency on the process, the whole</p> <p>9 process, start to finish, compared to what you see</p> <p>10 other -- I'm not asking you to throw someone under</p> <p>11 the bus --</p> <p>12 MS. CHIN: Right.</p> <p>13 DIRECTOR JOHNSON: -- but just in comparison.</p> <p>14 MS. CHIN: Well, I mean, we all know that a</p> <p>15 lot of the public agencies, we all know that they</p> <p>16 have a selection committee, right? And that -- so</p> <p>17 in recent years there has been a bigger transparency</p> <p>18 across a lot of public agencies to make who is on</p> <p>19 the selection committees transparent.</p> <p>20 I think that that's very important,</p> <p>21 but I think what's unique about the Tollway, that</p> <p>22 you make your staff also available to talk about,</p> <p>23 you know, feedback in terms of -- because they're</p> <p>24 the ones that are kind of boots on the ground and</p>
<p style="text-align: right;">Page 15</p> <p>1 For example, when -- our involvement</p> <p>2 in the Partnering for Growth, that particular team</p> <p>3 recognized that we couldn't -- you know, they</p> <p>4 needed to give us something that was substantial so</p> <p>5 that we can make -- it would make a difference for</p> <p>6 our firm. And I wouldn't agree to something if it</p> <p>7 wasn't.</p> <p>8 You know, one or two percent gets</p> <p>9 you sometimes maybe one person for half a season.</p> <p>10 And that's not something that, especially small</p> <p>11 firms, are able to sustain because, unlike larger</p> <p>12 firms, we can't keep guys on the bench a long time.</p> <p>13 DIRECTOR JOHNSON: When you said you were</p> <p>14 appreciative how after, even if you didn't get the</p> <p>15 bid, that staff would take time to explain to you</p> <p>16 your shortcomings, how you can improve, is that</p> <p>17 something you saw in other places, or is that kind</p> <p>18 of unique, what our people do?</p> <p>19 MS. CHIN: I will tell you, from our</p> <p>20 experience with other public agencies, it's pretty</p> <p>21 unique. I mean, they all -- a lot of public</p> <p>22 agencies will say that they will provide some</p> <p>23 feedback after the award, but it's like pulling</p> <p>24 teeth.</p>	<p style="text-align: right;">Page 17</p> <p>1 going to have to deal with these contracts.</p> <p>2 So, you know, the selection</p> <p>3 committee, knowing what they're going to look for</p> <p>4 and what they have is good.</p> <p>5 With respect to how some other</p> <p>6 agency -- it varies, you know. There -- City of</p> <p>7 Chicago is not as open as the Tollway is, but --</p> <p>8 MR. MONTGOMERY: Let's just be honest; the</p> <p>9 City of Chicago is horrible at this.</p> <p>10 (Laughter.)</p> <p>11 MS. CHIN: Luis said it, not me.</p> <p>12 MR. MONTGOMERY: I'll be the one that says</p> <p>13 that one out loud. They do not let you debrief --</p> <p>14 MS. CHIN: They don't let you debrief.</p> <p>15 They're not -- the selection process is not as</p> <p>16 transparent. You know, they give you dates, they</p> <p>17 often don't meet them, and there's no reasoning for</p> <p>18 why.</p> <p>19 DIRECTOR JOHNSON: So working with the</p> <p>20 Tollway is, compared to other ones, is more</p> <p>21 conducive to your needs and to your future as far</p> <p>22 as work goes.</p> <p>23 MS. CHIN: Absolutely.</p> <p>24 MR. MONTGOMERY: Yeah. And I think it -- I</p>

<p style="text-align: right;">Page 18</p> <p>1 mean, so I'll piggyback right on this, but I think, 2 as Eileen said, is the -- the schedule, the knowing 3 the information that you're giving so that we can 4 plan and we can look ahead, is very important to 5 running the business. 6 MS. CHIN: I think that procurement is very 7 conscious of time frames too. So, you know, when 8 you have a solicit -- a Professional Service 9 Bulletin out and there's addendums issued, it's 10 issued in reasonable time for our firms to react 11 to whatever changes were made as part of that 12 addendum, versus receiving changes, you know, two 13 days or a day before the solicitation is due. 14 And, you know, at that time -- you 15 know, it takes a tremendous amount of effort for 16 firms to, our firms to put these submittals 17 together, so if there's something substantial in 18 that addendum, you know, we're kind of scrambling. 19 DIRECTOR JOHNSON: So companies kind of look 20 forward to working with the Tollway, where 21 sometimes other government entities can be kind of, 22 well, maybe we -- 23 MR. MONTGOMERY: I mean, you just don't even 24 know. I mean, that's -- with the aforementioned</p>	<p style="text-align: right;">Page 20</p> <p>1 since you said when you started out, that your one 2 client made up 80 percent of your business, have 3 you been able to diversify your client base and 4 leverage your relationship with the Tollway to get 5 more business and expand beyond one client and 6 being the bulk of your business? 7 MS. CHIN: Absolutely. So, I mean -- so 8 at the time, you know, when my dad founded the 9 company, he was a working owner and, like many 10 working owners, it's hard to do your job and then 11 try to run your business and do all that strategic 12 planning and figure out how you're going to grow 13 and all that good stuff. 14 And so when I came aboard, that was 15 my job to help him to do this. And so, while we 16 were able to maintain what we had, we basically 17 added on this growth of the transportation sector. 18 As I mentioned, the Tollway was the 19 only agency at the time that took -- that accepted 20 the MBE certification. So we -- all the other -- a 21 lot of the other transportation agencies -- and, 22 rightly, because they receive federal funding -- 23 they have to follow the DBE criteria. We didn't 24 have our DBE status at the time. We didn't get our</p>
<p style="text-align: right;">Page 19</p> <p>1 other agency or department, you submit a proposal, 2 and sometimes it just goes into a black box; we 3 don't even know where -- when it comes out, we 4 don't know who makes the -- when the selections are 5 made, who's -- I mean, talk about opaque: Who got 6 selected? There's an announcement. There's -- 7 with this one, you know, everything is visible, you 8 know what I mean -- 9 MS. CHIN: The Tollway meets their deadlines. 10 MR. MONTGOMERY: Yeah. 11 MS. CHIN: When they say they're going to be 12 select -- you know, evaluating and selecting, it's 13 generally very on target. 14 DIRECTOR JOHNSON: And you're not 15 discouraged. I imagine with the other government 16 entities, you get somewhat discouraged trying to 17 work with them. 18 MR. MONTGOMERY: Right. 19 DIRECTOR JOHNSON: Here at the Tollway, 20 you're almost encouraged to work with them. 21 MR. MONTGOMERY: I would agree. 22 CHAIRMAN SCHILLERSTROM: Any other questions? 23 Yes. 24 DIRECTOR VAZQUEZ ROWLAND: I was curious,</p>	<p style="text-align: right;">Page 21</p> <p>1 DBE status until I took over as president in 2014. 2 So this was the one opportunity for us. 3 And from the experience that we got 4 on that first contract, we were able to start 5 leveraging to do work with other agencies. Not as 6 a prime, but definitely because we gained that -- 7 we gained that exposure and we were able -- we were 8 opened up to a new kind of group of firms to do 9 business with, we were able to be subconsultants on 10 some IDOT and CDOT work. 11 CHAIRMAN SCHILLERSTROM: Any other questions 12 from members of the committee? 13 I have kind of a general question. 14 Is there any specific recommendation that you would 15 make regarding any improvements that the Tollway 16 could make regarding transparency before the 17 selection is made on a particular item? 18 MS. CHIN: I think that's difficult. 19 MR. MONTGOMERY: I think it's difficult. 20 MS. CHIN: I think it's difficult to be able 21 to -- for your staff to kind of honor the process 22 without -- you know, I think that might -- that 23 could jeopardize the process, actually, because if 24 there's -- who would that information be shared</p>

<p style="text-align: right;">Page 22</p> <p>1 with?</p> <p>2 If it's shared with the public,</p> <p>3 then it's not -- nobody's given the opportunity to</p> <p>4 respond to it then, so it would be kind of going</p> <p>5 against what the spirit of that -- of the QBS is.</p> <p>6 CHAIRMAN SCHILLERSTROM: Okay.</p> <p>7 MR. MONTGOMERY: I would just echo and state</p> <p>8 that I think it's more important to release the</p> <p>9 selected firms that -- whenever -- you know,</p> <p>10 whenever the schedule is, and -- because we're all,</p> <p>11 you know, adults, and we'll move on to the next</p> <p>12 bulletin if we don't --</p> <p>13 CHAIRMAN SCHILLERSTROM: That's essentially,</p> <p>14 though, after selection.</p> <p>15 MR. MONTGOMERY: Correct. After selection.</p> <p>16 MS. CHIN: Right.</p> <p>17 CHAIRMAN SCHILLERSTROM: That was going to be</p> <p>18 my next question. I mean, if you could sort of</p> <p>19 break this out, you know, before selection, is</p> <p>20 there anything that the Tollway could do better</p> <p>21 from a transparency point of view?</p> <p>22 But then also, after selection --</p> <p>23 I mean, we're looking at, you know, we're going to</p> <p>24 follow the law, we are following the law, but just</p>	<p style="text-align: right;">Page 24</p> <p>1 want them short, is the staff generally pretty</p> <p>2 responsive in responding to those now? Or could</p> <p>3 they do a better job, in your opinion?</p> <p>4 MR. MONTGOMERY: That's a -- I mean, it's</p> <p>5 just kind of like we accept whatever we get and</p> <p>6 that's -- we haven't -- I haven't thought about</p> <p>7 whether that could be changed, you know.</p> <p>8 MS. CHIN: So one of the things I referenced</p> <p>9 was that look-ahead schedule that you have. So,</p> <p>10 you know, knowing what may be coming -- what is</p> <p>11 going to come on that next Professional Service</p> <p>12 Bulletin, those list of projects, before the</p> <p>13 PSB is out; because once it's out, that -- the</p> <p>14 process should be where, you know, we're preparing</p> <p>15 our submittals. That's where we need -- you as the</p> <p>16 staff need to protect the process and not be giving</p> <p>17 additional information of what should be in it. We</p> <p>18 need to know that stuff, all the information before</p> <p>19 it's released.</p> <p>20 CHAIRMAN SCHILLERSTROM: So, in other words,</p> <p>21 the look-ahead is helpful to you because obviously</p> <p>22 it tells you what we're thinking, you know, we're</p> <p>23 going to do these projects sometime in the</p> <p>24 relatively near future.</p>
<p style="text-align: right;">Page 23</p> <p>1 from a best practices point of view, is there any</p> <p>2 tweaking that you think we could do before or after</p> <p>3 that obviously complies with the law --</p> <p>4 MR. MONTGOMERY: I think in general before --</p> <p>5 I -- constant feedback to us about what you want</p> <p>6 and what the staff wants to read in those</p> <p>7 submissions is important.</p> <p>8 I mean, just independently as --</p> <p>9 debriefing, as Eileen said, is very critical, but</p> <p>10 also just, you know: Make them short, or make them</p> <p>11 concise or make them -- you know, whatever they</p> <p>12 want to see, that is -- those are -- we'll take</p> <p>13 those tools, we'll take that information and make</p> <p>14 the statements --</p> <p>15 CHAIRMAN SCHILLERSTROM: And do you have the</p> <p>16 ability to get that information now before the</p> <p>17 selection process? I mean, can you talk to our</p> <p>18 staff?</p> <p>19 I mean, I know that there's an</p> <p>20 opportunity to ask questions and things like that.</p> <p>21 Correct?</p> <p>22 MR. MONTGOMERY: Correct.</p> <p>23 CHAIRMAN SCHILLERSTROM: And when you ask</p> <p>24 those questions, do you want them long, do you</p>	<p style="text-align: right;">Page 25</p> <p>1 MS. CHIN: Right.</p> <p>2 CHAIRMAN SCHILLERSTROM: It gives you the</p> <p>3 opportunity TO look at these and say, this is</p> <p>4 something that we would like to follow up with</p> <p>5 because it's within our wheelhouse, or whatever the</p> <p>6 reason. But you need that to be able to plan as</p> <p>7 far out as possible.</p> <p>8 But once -- once the bulletin comes</p> <p>9 out, then you -- you want to be able to focus on</p> <p>10 what's in the bulletin.</p> <p>11 MR. MONTGOMERY: Correct.</p> <p>12 MS. CHIN: Right.</p> <p>13 CHAIRMAN SCHILLERSTROM: And I guess my</p> <p>14 question is, once the bulletin does come out and</p> <p>15 you are focusing on it, you know, is our feedback</p> <p>16 at that time, or the opportunity for feedback, is</p> <p>17 that adequate?</p> <p>18 MR. MONTGOMERY: Yes.</p> <p>19 CHAIRMAN SCHILLERSTROM: Are we responsive?</p> <p>20 MR. MONTGOMERY: I mean, you guys allow</p> <p>21 questions up to ten days before submittal. That's</p> <p>22 the -- in the -- yeah. Would it be nice to have</p> <p>23 eight days or, you know, a little bit less? But,</p> <p>24 you know, that's -- there's always a couple -- but</p>

<p style="text-align: right;">Page 26</p> <p>1 that's just tweaking it --</p> <p>2 CHAIRMAN SCHILLERSTROM: Right.</p> <p>3 MR. MONTGOMERY: -- that's not necessarily</p> <p>4 fundamental changes. But I think that that's fair.</p> <p>5 It's stated there, ten days, up to ten days before</p> <p>6 statement of interests are due, you can ask</p> <p>7 questions.</p> <p>8 And so that's -- and it's also so if</p> <p>9 there is an addendum and it pushes the date, you</p> <p>10 get that extra.</p> <p>11 DIRECTOR JOHNSON: Why is ten days?</p> <p>12 What's -- why can't they ask up to closer? Is</p> <p>13 there a reason why --</p> <p>14 MR. MONTGOMERY: Because they have to -- I</p> <p>15 mean, staff has -- I mean, if I can go ahead</p> <p>16 myself --</p> <p>17 MR. KOVACS: Go ahead.</p> <p>18 MR. MONTGOMERY: No, I mean, they have to</p> <p>19 review, confer, you know, talk. Because the</p> <p>20 questions take time to respond to as well.</p> <p>21 And I think there's a lot of</p> <p>22 duplicate questions on certain items or in general.</p> <p>23 So, you know, you don't want to -- you want to make</p> <p>24 sure that your answer --</p>	<p style="text-align: right;">Page 28</p> <p>1 your type of work --</p> <p>2 MS. CHIN: Right.</p> <p>3 DIRECTOR VAZQUEZ ROWLAND: -- given the time</p> <p>4 frame that you have to ask and answer questions,</p> <p>5 you have, in your experience, always felt that</p> <p>6 they are very clear in their wording and the</p> <p>7 understanding and the expectations, and that's been</p> <p>8 your experience.</p> <p>9 MR. MONTGOMERY: Yes.</p> <p>10 MS. CHIN: Yes.</p> <p>11 DIRECTOR VAZQUEZ ROWLAND: Okay. Good.</p> <p>12 MR. MONTGOMERY: And I would add to that, the</p> <p>13 Tollway does something that other agencies don't</p> <p>14 do specifically regarding the pre-qualification</p> <p>15 process, is -- or pre-qualification categories --</p> <p>16 is they allow a lot of the pre-quals to be met</p> <p>17 through subconsultants, which is enormously</p> <p>18 beneficial to a small business like mine or ours.</p> <p>19 We do not have every IDOT pre-qual</p> <p>20 under the sun, as some of the other big firms do.</p> <p>21 DIRECTOR VAZQUEZ ROWLAND: Right.</p> <p>22 MR. MONTGOMERY: There's probably, I don't</p> <p>23 know, 40 different pre-qualification categories.</p> <p>24 We have a dozen, you know.</p>
<p style="text-align: right;">Page 27</p> <p>1 DIRECTOR JOHNSON: And 10 days is not an</p> <p>2 undue burden on you.</p> <p>3 MR. MONTGOMERY: I mean, again, like, yeah,</p> <p>4 would we like eight days? Of course we would. But</p> <p>5 10 days is -- and it's reasonable, it's stated,</p> <p>6 it's known, it's -- the industry knows it, so it's</p> <p>7 not a -- there's no, you know, quick, you know what</p> <p>8 I'm saying, card trick or something like that.</p> <p>9 CHAIRMAN SCHILLERSTROM: Right. So we</p> <p>10 respond up to 10, we don't stop at 11. We say</p> <p>11 10, and we do 10.</p> <p>12 MR. MONTGOMERY: Right.</p> <p>13 DIRECTOR VAZQUEZ ROWLAND: I have a question.</p> <p>14 CHAIRMAN SCHILLERSTROM: Go ahead.</p> <p>15 DIRECTOR VAZQUEZ ROWLAND: Has there ever</p> <p>16 been an instance where you responded to an RFP and</p> <p>17 you were -- you lost, and it was because you were</p> <p>18 unclear on the scope of the contract requirement?</p> <p>19 MR. MONTGOMERY: During the debriefings that</p> <p>20 we get, we never -- it wasn't -- it never came back</p> <p>21 to that reason; you know what I mean?</p> <p>22 DIRECTOR VAZQUEZ ROWLAND: Right. So they're</p> <p>23 pretty much, in your opinion, very clear. And if</p> <p>24 you're in the business of, you know, responding to</p>	<p style="text-align: right;">Page 29</p> <p>1 So the fact that they'll list the</p> <p>2 ones that are required by the prime, by the person</p> <p>3 who's submitting, and then they list which ones can</p> <p>4 be met through a subconsultant, fantastic. Applaud</p> <p>5 you guys.</p> <p>6 CHAIRMAN SCHILLERSTROM: Is that unique to</p> <p>7 this agency?</p> <p>8 MS. CHIN: Pretty much.</p> <p>9 MR. MONTGOMERY: Pretty much, yeah. IDOT</p> <p>10 does not, let's just -- the other one that uses the</p> <p>11 pre-qualification category is --</p> <p>12 DIRECTOR JOHNSON: And that helps small</p> <p>13 businesses.</p> <p>14 MS. CHIN: Absolutely.</p> <p>15 DIRECTOR JOHNSON: That encourages small</p> <p>16 business to step up --</p> <p>17 MR. MONTGOMERY: To bid on it, yeah.</p> <p>18 MS. CHIN: To submit as the prime.</p> <p>19 CHAIRMAN SCHILLERSTROM: And minority</p> <p>20 businesses too.</p> <p>21 MR. MONTGOMERY: Minority, small, venture,</p> <p>22 everybody. I mean, because you can -- the ones</p> <p>23 that they typically use for the -- are the, kind</p> <p>24 of the general ones, you know, highway design,</p>

<p style="text-align: right;">Page 30</p> <p>1 construction inspection, something that you're 2 going to have. But if they want the landscape 3 architecture or the -- 4 DIRECTOR JOHNSON: Very specialized. 5 MR. MONTGOMERY: -- specialized, say, okay, 6 bring them in as a sub. 7 And, to be quite frank, not to 8 speak for the big guys in the room here, the big 9 companies, but they like that because they want 10 to -- we want to be able to -- they want -- we want 11 to be able to return the favor; we're oftentimes 12 the subs. So for us to be meeting and then using, 13 you know, a bigger company as a sub, it's a 14 win-win; it's one of those really truly win-wins, 15 I think. 16 DIRECTOR VAZQUEZ ROWLAND: So just like my 17 final classification: So you have pretty much 18 never really felt at a disadvantage to a big 19 company because of the ability to have more 20 flexibility in your bidding. So you feel like 21 you're pretty much on the even, you know, level. 22 It gives -- equalizes it a lot more. 23 MR. MONTGOMERY: Except for the size of the 24 projects --</p>	<p style="text-align: right;">Page 32</p> <p>1 MS. CHIN: Right. 2 CHAIRMAN SCHILLERSTROM: -- as a reason to 3 say you're just not big enough to do it. 4 MR. MONTGOMERY: Right. 5 CHAIRMAN SCHILLERSTROM: Because the most 6 important thing at the end of the day, when you 7 look at qualification-based selection, is to get a 8 firm in there that has the qualifications to do 9 the job for the safety of the people who use the 10 system. 11 MR. MONTGOMERY: Right. 12 CHAIRMAN SCHILLERSTROM: And what you're 13 saying, too, is if you do have one deficiency, the 14 Tollway allows you to bring in outside expertise, 15 which -- 16 MR. MONTGOMERY: For that particular item, to 17 meet that particular pre-qualification for that 18 statement -- you know, for that item on the 19 bulletin. 20 DIRECTOR VAZQUEZ ROWLAND: Okay. 21 MR. MONTGOMERY: Yeah. 22 CHAIRMAN SCHILLERSTROM: Luis, did you have a 23 statement that you wanted to make -- 24 MR. MONTGOMERY: No, I'm not as prepared.</p>
<p style="text-align: right;">Page 31</p> <p>1 DIRECTOR VAZQUEZ ROWLAND: Right. 2 MR. MONTGOMERY: -- which is completely 3 understandable. If it's a very big job, it would 4 be a joke for me to submit on that. 5 DIRECTOR VAZQUEZ ROWLAND: Right. 6 MR. MONTGOMERY: Paul would laugh all day. 7 And I'd want him to laugh all day, me submitting 8 like a \$50 million project. You know, it just 9 doesn't make sense. 10 DIRECTOR VAZQUEZ ROWLAND: Okay. 11 MR. MONTGOMERY: So that -- just that caveat, 12 we have to be reasonable about what we submit on. 13 But the fact that they allow us to use some of 14 these -- the bigger firms as -- I mean, the more 15 specialized pre-qualifications, which tend to be 16 the bigger firms, as a subconsultant, and meet all 17 the pre-qualifications for that particular item 18 is -- I can't say enough about it. 19 CHAIRMAN SCHILLERSTROM: And isn't that part 20 of -- you know, didn't you just get to the heart of 21 qualified-based selection? If you went in and you 22 bid on a project that you just couldn't happen, 23 that you just couldn't do, Paul wouldn't laugh, 24 but he'd use qualification-based selection --</p>	<p style="text-align: right;">Page 33</p> <p>1 CHAIRMAN SCHILLERSTROM: -- or did you get it 2 all out? 3 MR. MONTGOMERY: Ditto. My statement is 4 ditto. She did a fantastic -- 5 MS. CHIN: We wrote it together. 6 CHAIRMAN SCHILLERSTROM: You guys are a good 7 team together. We'll have to remember that. 8 Is there anything else that you 9 would like to say at this time? 10 (No response.) 11 And are there any other questions 12 from members of the committee? 13 (No response.) 14 Well, thank you guys very much for 15 coming in today. 16 MS. CHIN: Thank you. 17 CHAIRMAN SCHILLERSTROM: And I will tell 18 you this, that as -- after you leave today, if 19 there's any other things that come to mind or 20 recommendations, and even after this Committee's 21 over with, we're always looking for ideas, 22 especially from the people who are on the ground 23 and working with us because, because you deal with 24 the way we do business, you know the strengths of</p>

<p style="text-align: right;">Page 34</p> <p>1 what we do, and you know the weaknesses. So never</p> <p>2 be afraid to, you know, let us know, hey, you could</p> <p>3 strengthen the way you do business in this</p> <p>4 particular way.</p> <p>5 We greatly appreciate that, and we</p> <p>6 greatly appreciate you having been on our teams for</p> <p>7 so many years.</p> <p>8 MS. CHIN: Thank you.</p> <p>9 MR. MONTGOMERY: Thank you for the</p> <p>10 opportunity.</p> <p>11 CHAIRMAN SCHILLERSTROM: Okay.</p> <p>12 Next we're going to ask Mr. Dave</p> <p>13 Bender, who is the President and CEO of the</p> <p>14 American Council of Engineering Companies for</p> <p>15 Illinois, commonly known as ACEC.</p> <p>16 Dave's an expert in the area of QBS</p> <p>17 and design build and has testified before many</p> <p>18 groups, including our -- the Illinois House and the</p> <p>19 Senate on transportation and procurement issues,</p> <p>20 and I know that he spent a fair amount of time in</p> <p>21 Washington, and, you know, essentially he -- his</p> <p>22 group is a -- and I'll let him correct me, but the</p> <p>23 way I look at it, it's a group of engineers,</p> <p>24 association of engineers, and he understands</p>	<p style="text-align: right;">Page 36</p> <p>1 I will tell you that the Tollway,</p> <p>2 without a doubt, almost overcommunicates with</p> <p>3 engineering firms and people that do business, as</p> <p>4 compared to other clients that we have.</p> <p>5 So you all are to be applauded. The</p> <p>6 staff and Mr. Kovacs' staff is to absolutely be</p> <p>7 applauded. Your pre-meetings that you have, you</p> <p>8 have public meetings constantly. I mean, I get</p> <p>9 your emails, and they're always having a meeting</p> <p>10 about what project's coming up, what bulletins</p> <p>11 are coming up, what rules are changing, what's some</p> <p>12 significant changes or suggested changes.</p> <p>13 You are very accessible and you</p> <p>14 are very transparent. Compared to the others</p> <p>15 there's -- there's no second place. You guys are</p> <p>16 in the lead on this, and you are to be absolutely</p> <p>17 applauded for your leadership and your vision on</p> <p>18 that.</p> <p>19 So saying that, again I would like</p> <p>20 to thank you all and the staff for the honor of</p> <p>21 having the opportunity to talk to you.</p> <p>22 And, you know, it's been a real</p> <p>23 tough five to six years in the engineering industry</p> <p>24 here in Illinois. We have been in an engineering</p>
<p style="text-align: right;">Page 35</p> <p>1 perhaps engineering and the basis for QBS better</p> <p>2 than maybe anybody.</p> <p>3 So I don't want to put words in your</p> <p>4 mouth. Feel free to correct me; I'm always subject</p> <p>5 to correction. But, Dave, thank you for being here.</p> <p>6 MR. BENDER: Thank you.</p> <p>7 CHAIRMAN SCHILLERSTROM: We really appreciate</p> <p>8 it. And we look forward to what you have to say.</p> <p>9 And we appreciate working with you over the years.</p> <p>10 MR. BENDER: Thank you.</p> <p>11 CHAIRMAN SCHILLERSTROM: So I'm going to turn</p> <p>12 the floor over to you.</p> <p>13 MR. BENDER: Thank you, Mr. Chairman and</p> <p>14 Directors. It's a pleasure to be here today. And</p> <p>15 he has given me much too far credit, but that is</p> <p>16 what I do for a living.</p> <p>17 So I represent the American Council</p> <p>18 of Engineering Companies of Illinois. We have</p> <p>19 about 235 firms in Illinois doing business, with</p> <p>20 about 12,000 employees.</p> <p>21 I want to -- before I get into my</p> <p>22 actual -- I want to build upon the two great</p> <p>23 members that just spoke here. Couldn't ask for two</p> <p>24 better examples of a DBE firm.</p>	<p style="text-align: right;">Page 37</p> <p>1 economic recession. The lack of funding, outside</p> <p>2 of the Tollway, and certain municipalities like the</p> <p>3 City of Chicago, has really been tough. It's been</p> <p>4 tough on it.</p> <p>5 We relied on public funding</p> <p>6 through motor fuel tax when it comes to surface</p> <p>7 transportation, which has not been raised since</p> <p>8 1990.</p> <p>9 We now are the 50th state. Oklahoma</p> <p>10 was 1989 since they had raised their gas tax. They</p> <p>11 just did it about a month and a half ago.</p> <p>12 Now, there's Alaska, Louisiana,</p> <p>13 and Mississippi, but they are supplemented by oil</p> <p>14 reserves with their gas tax. But if you take those</p> <p>15 out, we are dead last now to raise our gas tax.</p> <p>16 And you see the conditions of the</p> <p>17 road -- once you get off the Tollway system, you</p> <p>18 see the conditions of the roads that are just</p> <p>19 absolutely horrific and borderline unsafe.</p> <p>20 So I applaud the Illinois Tollway</p> <p>21 for getting the work done and really building a</p> <p>22 wonderful system.</p> <p>23 You have modernized a fantastic and</p> <p>24 vital system for the Chicagoland area, you've</p>

<p style="text-align: right;">Page 38</p> <p>1 boosted the economy of our firms, businesses, and 2 also communities. But, most of all, you have 3 provided a safe, efficient, and dependable 4 transportation system which enhances the lives of 5 the users. 6 And again, I appreciate the 7 opportunity to briefly address the manner in 8 which engineers' work is procured, the QBS, 9 qualification-based selection. 10 QBS is a tried and true method 11 of negotiated procurement when it comes to 12 professional services. 13 Rather than read bullet points, I 14 thought it would be best to play a very simple 15 three-minute video provided by our colleagues from 16 ACEC-Michigan, which can explain and break down 17 what QBS is, why it works. 18 So please note there are some parts 19 during the selection portion which you'll see on 20 there, I think it really does a great job, that is 21 a bit redundant, some of these steps are kind of 22 combined within there. So after the video, I'll 23 go a little bit more and be happy to take your 24 questions.</p>	<p style="text-align: right;">Page 40</p> <p>1 qualifications. 2 Number four, make a short list of 3 firms to interview. 4 Number five, conduct interviews. 5 Number six, rank firms. 6 Number seven, select your top ranked 7 firm. 8 Number eight, jointly define scope 9 with a top ranked consultant. 10 Number nine, negotiate a fee. 11 Number ten, execute a contract. 12 But what if you can't agree on a 13 scope and fee? 14 It's simple. Just move to the 15 second ranked firm and negotiate. 16 You might be thinking, what's wrong 17 with a low bid? Most firms are qualified, right? 18 Here are a few of the problems with 19 using price in your selection decision. 20 A price-based selection rewards 21 firms that interpret your project minimally, 22 committing fewer resources and using less 23 experienced staff. This could put you at risk. It 24 encourages firms to ignore project complexities,</p>
<p style="text-align: right;">Page 39</p> <p>1 (Video follows:) 2 You're in charge of a new project. 3 You need to hire professionals to design that 4 project. But how do you pick the right 5 professionals for your project? 6 The best practice is to use 7 qualifications-based selection. 8 Qualifications-based selection, or 9 QBS, is a simple and competitive process that 10 matches the right professional service provider to 11 your project. 12 QBS improves quality, encourages 13 innovation, and reduces costs. 14 Those who use QBS agree, the QBS 15 process prevents problems. 16 Projects that use QBS have fewer 17 cost overruns -- 70 percent fewer -- shorter 18 schedules, and improved construction quality. 19 Here's how QBS works: 20 Number one, first identify the 21 general scope of your project. 22 Number two, issue a Request for 23 Qualifications. 24 Number three, evaluate the</p>	<p style="text-align: right;">Page 41</p> <p>1 which you usually end up paying for through change 2 orders. 3 By using price to select your design 4 professionals, you may miss out on innovations, the 5 same innovations that can save money over the life 6 of your project. 7 Low bid procurement may save owners 8 a small amount on upfront design costs, but it can 9 actually cost taxpayers money over the life of the 10 project. 11 Architecture, engineering, and 12 surveying are creative services. There are 13 different ways to achieve the same result. 14 Design fees make up a small portion 15 of the overall project costs, but the decisions 16 made and designs created have a huge impact on the 17 overall life cycle costs of the project. 18 The opportunities to add value in a 19 project are highest during the design phase, and 20 the cost to make changes to a project increases 21 dramatically in the later stages. 22 With QBS, you get the right team for 23 the right project, realistic schedules and budgets, 24 better business relationships, better service,</p>

<p style="text-align: right;">Page 42</p> <p>1 better quality, and better value for the taxpayer. 2 Contact us to learn more. 3 Qualifications-based selection, QBS-MI.org. 4 (End of video.) 5 CHAIRMAN SCHILLERSTROM: So Dave. 6 MR. BENDER: Yes. 7 CHAIRMAN SCHILLERSTROM: So that video just 8 showed the commonsense reasons why you don't low 9 bid engineering contracts. 10 MR. BENDER: Right. 11 CHAIRMAN SCHILLERSTROM: Why -- presumably 12 why the State of Illinois has adopted a law that 13 says you have to use QBS. 14 MR. BENDER: Correct. 15 CHAIRMAN SCHILLERSTROM: So there's two 16 reasons to use QBS. One, the common sense, you get 17 the best engineering for the project, and then, 18 two, because it's the law in the State of Illinois. 19 MR. BENDER: Correct. That is correct. 20 And so if you go to that website -- 21 and we're going to migrate -- we helped create it a 22 little bit, provided some content -- but there's a 23 great FAQ right below that that answers a ton of 24 those questions that you all may have, and it</p>	<p style="text-align: right;">Page 44</p> <p>1 firm may have a special engineer there that has got 2 so much expertise in a project that the scope has 3 designed by -- and set forth by Mr. Kovacs, that he 4 or she may have so much expertise in it that they 5 actually can save time because they've had that 6 experience; versus a firm who may be qualified, 7 may not have that tons of experience, that would 8 account for more hours. 9 So you can actually save in time and 10 also money, plus get a really innovative and safe 11 and reliable project. 12 You know, I'll take your questions, 13 but before I do so, I wanted to point to a prime 14 example of how QBS works; and that is the Jane 15 Addams Expressway. 16 That project has won several state 17 and national awards for its creativity, its 18 innovation, its technological advances, its 19 safety features, its on-time delivery; all of the 20 complexities involved with the type of that 21 massive, massive and great project. 22 The Tollway, through the use of QBS, 23 got the opportunity to select the best of the best. 24 Under a low bid system, you would</p>
<p style="text-align: right;">Page 43</p> <p>1 really breaks it down in a real simple area. 2 And some of them, for example, 3 selecting a contractor: So a road builder or a 4 general contractor is -- differs from a selection 5 of a firm that designs that project. 6 A construction contract can be 7 awarded at the lowest responsible bidder because 8 all major aspects of the project are defined, 9 including the type and amount of construction 10 materials required to complete that project. 11 On the other hand, you retain 12 engineering firms to turn that concept into a set 13 of plans and specifications. The engineers take 14 the idea and give it a definition. The contractor 15 then takes the definition and turns it into a 16 physical reality. 17 And that's why there is a QBS 18 selection phase, plain, pure and simple, on that. 19 Now, a lot of people say, well, why 20 not low bid? You know, is QBS a higher price? Are 21 we getting our bang, you know, for our money? 22 And for the example, it would be -- 23 sometimes in a QBS, in many occasions a QBS, since 24 you have such a qualified engineering firm, that</p>	<p style="text-align: right;">Page 45</p> <p>1 have received a cookie cutter model, one that 2 wasn't as innovative, one that wasn't creative, and 3 possibly a lead design firm who could have maybe 4 been from an international large, large Wal-Mart 5 type design firm whose employees have never used or 6 never driven on the Tollway system. 7 So I think that's a prime example of 8 how QBS works. You guys saw it; you guys lived it; 9 you got it in time; it was delivered; and it is a 10 shining beacon of how QBS works, and also for your 11 users of that. 12 So I'd be happy to take any 13 questions that you have. 14 CHAIRMAN SCHILLERSTROM: Any questions from 15 the Committee for Mr. Bender? 16 DIRECTOR VAZQUEZ ROWLAND: When you talk 17 about Illinois being 50? 18 MR. BENDER: Yes. 19 DIRECTOR VAZQUEZ ROWLAND: What exactly does 20 that mean in terms of like the gas tax? Like, so 21 how -- you know, this may be off topic here for the 22 moment -- 23 MR. BENDER: Sure. 24 DIRECTOR VAZQUEZ ROWLAND: -- but I'm just</p>

<p style="text-align: right;">Page 46</p> <p>1 curious, what does that mean? Like what's the 2 percentage -- 3 MR. BENDER: Yeah. So Illinois in 1990 4 raised their gas tax to 19 cents a gallon. So it's 5 called a motor fuel tax. And that's what the 6 motorists pay when they go to the pump, in addition 7 to federal gas tax prices. 8 It does not include sales tax on 9 gasoline, which, by the way, Illinois's only one of 10 four states that does not use their sales tax on 11 transportation, they use it for general funds. So 12 we'll get to that on down the road, maybe in a 13 different meeting. 14 But Illinois is 19 cents. Missouri 15 is at 17 cents. 16 So Illinois is not -- and you'll 17 hear a lot of people say we are the highest gas tax 18 state in the United States, or even in the region. 19 That's simply not true. 20 Indiana just passed a 10-cent gas 21 tax increase; theirs is well above 19 cents. 22 Iowa just passed a 12-cent gas tax 23 increase; they're well above 19 cents. 24 Missouri has actually got a</p>	<p style="text-align: right;">Page 48</p> <p>1 Alaska, I believe, and Hawaii, have the lowest. 2 Hawaii doesn't have as many roads. But the state 3 of Alaska gets oil reserves, and that helps pay and 4 supplement their gas tax. 5 DIRECTOR VZQUEZ ROWLAND: And based on what 6 you know, is all those 19 cents used for 7 infrastructure, every dollar? 8 MR. BENDER: Yes. Yes, they are. One 9 hundred percent. 10 DIRECTOR VAZQUEZ ROWLAND: So we don't -- 11 MR. BENDER: Now that there's that 12 constitutional amendment that was passed in 2016 by 13 80 percent of the voters, it is all dedicated now 14 to that. 15 It used to be, in 15 years, seven 16 and a half billion dollars was swept. And usually 17 when you sweep something, you put it back. It's 18 never put back in. So now it is constitutionally 19 protected. 20 So that is why the Illinois Tollway 21 System is a great model; it is tried, true, tested, 22 and absolutely brilliant. 23 DIRECTOR JOHNSON: You say Illinois is the 24 second most highway miles?</p>
<p style="text-align: right;">Page 47</p> <p>1 constitutional amendment, which they believe will 2 pass, according to polls, that will increase their 3 gas tax for the next five years up to 10 cents. 4 They will be ahead of us. 5 But that 1990 figure is the last time. 6 28 years. What do you know in 7 28 years that has not increased in value? 8 And with a system that has 2200 9 miles of interstate highway systems, second most 10 amount of bridges in any other state in the United 11 States, second most amount of highway miles and 12 local roads miles than any other state in the 13 United States, how in the world can we maintain 14 that system on 19 cents that has not been raised in 15 28 years, going on 29 years? 16 It's simply just ridiculous to be 17 able to try to design a system that is usable for a 18 world class state, with a world class city in the 19 city of Chicago. We're losing our competitive 20 advantage. 21 DIRECTOR VAZQUEZ ROWLAND: Is the 19 cents 22 the lowest in the country? 23 MR. BENDER: It's in the lowest seven in the 24 country. It is not the lowest. The state of</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. BENDER: Yes, sir. Texas, number one. 2 DIRECTOR JOHNSON: Not California? 3 MR. BENDER: California's only -- pretty much 4 got north and south roads. And they're just so 5 congested up there, so compact, that no, they don't. 6 CHAIRMAN SCHILLERSTROM: Remember, we're the 7 transportation center of the country. 8 MR. BENDER: Absolutely. 9 CHAIRMAN SCHILLERSTROM: Right in the heart 10 of the country. Everything goes through Illinois. 11 MR. BENDER: And we have the most class one 12 railroads. The hub of the rail community. We are 13 the absolute economic engine of this country from a 14 logistical standpoint, and we're letting it fail 15 right before our eyes. 16 The Tollway -- not just saying this 17 because you're all here -- the Tollway is what's 18 keeping us alive right now. 19 DIRECTOR JOHNSON: Seriously -- 20 MR. BENDER: Seriously. 21 DIRECTOR JOHNSON: -- the Tollway. 22 And, by the way, Elk Grove's the 23 transportation hub of -- 24 (Laughter.)</p>

<p style="text-align: right;">Page 50</p> <p>1 MR. BENDER: Yes, it is. Absolutely is.</p> <p>2 Rosemont may have something to say</p> <p>3 about that. Yes, sir.</p> <p>4 CHAIRMAN SCHILLERSTROM: Any other questions</p> <p>5 for Mr. Bender?</p> <p>6 DIRECTOR VAZQUEZ ROWLAND: Thank you.</p> <p>7 CHAIRMAN SCHILLERSTROM: Well, thank you very</p> <p>8 much, Dave.</p> <p>9 MR. BENDER: Thank you, Mr. Chairman.</p> <p>10 CHAIRMAN SCHILLERSTROM: Appreciate the</p> <p>11 partnership with you.</p> <p>12 DIRECTOR STEPHENS: Rosemont, it's all here.</p> <p>13 (Laughter.)</p> <p>14 CHAIRMAN SCHILLERSTROM: All right.</p> <p>15 DIRECTOR STEPHENS: I've got to get my</p> <p>16 commercial in.</p> <p>17 CHAIRMAN SCHILLERSTROM: I understand.</p> <p>18 All right. Next we would ask Mr. Ed</p> <p>19 Gower to come forward.</p> <p>20 Ed was with us at our last meeting,</p> <p>21 and we are -- we thank you for your time last week,</p> <p>22 Ed, and we appreciate you coming back today.</p> <p>23 As I said the last time, he served</p> <p>24 as IDOT's chief counsel for twelve years, from 1991</p>	<p style="text-align: right;">Page 52</p> <p>1 lot more than it does today.</p> <p>2 And we also have the double whammy</p> <p>3 because the federal gas tax hasn't been increased</p> <p>4 since about 1993. And I can tell you, having</p> <p>5 driven up on I-55 yesterday, it's in the worst</p> <p>6 shape I've ever seen that road. And not just one</p> <p>7 section, multiple sections.</p> <p>8 We really are -- I view</p> <p>9 transportation as the backbone of the economy, and I</p> <p>10 think most of you do too or you wouldn't be here</p> <p>11 today putting in your public service in support of</p> <p>12 the traveling public. And what we have right now</p> <p>13 is just an embarrassment.</p> <p>14 So there are -- the constitutional</p> <p>15 amendment was passed. The diversions for general</p> <p>16 revenue funds as a general proposition has ceased,</p> <p>17 but there is money now flowing out of the -- that's</p> <p>18 flowing out of the Motor Fuel Tax Fund to transit,</p> <p>19 which never happened previously.</p> <p>20 So there is -- you know, there's a</p> <p>21 minor, I would call it -- I represent Metra and I</p> <p>22 do a lot of work for Metra, but there is some</p> <p>23 diversion coming out. It's poor transportation,</p> <p>24 so I guess it may not be a diversion, but it's not</p>
<p style="text-align: right;">Page 51</p> <p>1 through 2003. And he is currently in private</p> <p>2 practice and is -- has an expertise in government</p> <p>3 procurement. He represents many governmental</p> <p>4 entities, including transit agencies, airport</p> <p>5 authorities, and units of local government.</p> <p>6 We're very happy to have him here</p> <p>7 with all of his expertise. And he's going to talk</p> <p>8 to us a little bit today about procurement again if</p> <p>9 he wants to, but a little bit more about conflict</p> <p>10 of interest. And that has been something that we</p> <p>11 recognize that this Committee should undertake.</p> <p>12 So thank you once again, Mr. Gower,</p> <p>13 for sharing your expertise with us. And I'm going</p> <p>14 to turn the floor over to you right now.</p> <p>15 MR. GOWER: Well, thank you again for the</p> <p>16 invitation, Mr. Chairman.</p> <p>17 I just wanted to follow up on a</p> <p>18 couple things that Dave Bender said with respect to</p> <p>19 transportation funding.</p> <p>20 First, it's -- I think actually the</p> <p>21 last gas tax increase here was in '89. And it's</p> <p>22 not indexed, which is part of the -- which is a</p> <p>23 significant part of the problem, because it doesn't</p> <p>24 grow, and so 19 cents in 1989 meant one heck of a</p>	<p style="text-align: right;">Page 53</p> <p>1 going into the roads.</p> <p>2 And there are all kinds of -- there</p> <p>3 are polls coming out the wazoo showing that people</p> <p>4 will vote to increase the gas tax if they are</p> <p>5 persuaded that it's going to the roads and to</p> <p>6 transportation.</p> <p>7 And thanks to Dave and other</p> <p>8 association heads and their members, we did get a</p> <p>9 constitutional amendment passed to make sure that</p> <p>10 that -- those funds are dedicated to transportation.</p> <p>11 But we're in dire straits, from my perspective.</p> <p>12 Sorry, quick plug.</p> <p>13 CHAIRMAN SCHILLERSTROM: No, no, that's --</p> <p>14 I couldn't agree more. We're a transportation</p> <p>15 center. It's helped to lead to the success of this</p> <p>16 state for the last 200 years. And if we're going</p> <p>17 to continue to be a transportation leader, we need</p> <p>18 to invest in our infrastructure.</p> <p>19 MR. GOWER: Well, you're doing it on the toll</p> <p>20 system. I just drove through a substantial part of</p> <p>21 your construction getting here today.</p> <p>22 (Laughter.)</p> <p>23 CHAIRMAN SCHILLERSTROM: Thank you. We</p> <p>24 appreciate your investment.</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. GOWER: I thought what I'd do today is</p> <p>2 talk to you briefly about conflicts of interest.</p> <p>3 And I want to talk to you about two components.</p> <p>4 One, I just thought it would be</p> <p>5 helpful to give you some background as to what the</p> <p>6 law is with respect to conflicts of interest in the</p> <p>7 procurement world and the procurement code which</p> <p>8 applies to the Tollway. And then, second, I want</p> <p>9 to talk a little bit about the same topic I touched</p> <p>10 on a little bit in my last presentation, which is</p> <p>11 the perceptions and what you can do -- have some</p> <p>12 suggestions for what you might be able to do to</p> <p>13 address or get on the same page.</p> <p>14 The one big item that you have to</p> <p>15 pay attention to, and I just -- and I don't know</p> <p>16 that it ever has been a problem for the Tollway,</p> <p>17 but I want to make you aware of it -- is that it's</p> <p>18 unlawful for any person who's an officer or</p> <p>19 employee of the Tollway, or who's the spouse or</p> <p>20 minor child of any such person, to have or acquire</p> <p>21 any contract or any direct pecuniary interest in</p> <p>22 the contract with the Tollway.</p> <p>23 And I'll get to some of the -- what</p> <p>24 the distributable income means and what pecuniary</p>	<p style="text-align: right;">Page 56</p> <p>1 professionals, contracts with licensed professionals,</p> <p>2 provided they're competitively bid.</p> <p>3 I have a matter right now in which I</p> <p>4 represent a firm that has a rising star who's also</p> <p>5 married to an employee at IDOT, and they're on the</p> <p>6 cusp of hitting that 7 1/2 percent total. IDOT</p> <p>7 obviously is aware and it's routinely disclosed</p> <p>8 that the spouse is married to the employee of my</p> <p>9 client. She has recused herself where necessary.</p> <p>10 I am about to submit a document to</p> <p>11 the chief procurement office for IDOT arguing that</p> <p>12 in fact licensed -- professional engineering firms</p> <p>13 are exempt from this prohibition, which I think</p> <p>14 would alleviate some of those concerns.</p> <p>15 There are still ethics provisions in</p> <p>16 the Engineering Practice Act which will address</p> <p>17 some of the concerns that are raised here, but it</p> <p>18 can work a terrible hardship on a family where the</p> <p>19 spouse is also an accomplished engineer and works</p> <p>20 in the public sector.</p> <p>21 The General Services CPO has rules</p> <p>22 where she's defined what a direct pecuniary</p> <p>23 interest is. And it basically is -- her definition</p> <p>24 is designed to demonstrate that what they're really</p>
<p style="text-align: right;">Page 55</p> <p>1 interest means in a second.</p> <p>2 The law also expands to cover any</p> <p>3 firm in which your spouse -- you, your spouse, or a</p> <p>4 minor child have a set right to 7 1/2 percent of</p> <p>5 the total distributable income, or are entitled to</p> <p>6 an amount in excess of the salary of the governor.</p> <p>7 The total distributable income, I'll</p> <p>8 show you a definition in a minute, but it basically</p> <p>9 is designed to pick up ownership interest. It's</p> <p>10 not -- it's not salary.</p> <p>11 And while it's -- the second part of</p> <p>12 that is -- would appear to be somewhat open as to</p> <p>13 whether that means income or ownership interest.</p> <p>14 Actually, I litigated a case before</p> <p>15 the Executive Ethics Commission, and they agreed</p> <p>16 with me that that refers to ownership interest as</p> <p>17 well. So -- and 60 percent of the governor's</p> <p>18 salary is somewhere in the neighborhood of \$106,800.</p> <p>19 There's another subsection that</p> <p>20 simply picks up combined interest. So it adds the</p> <p>21 aggregate of what you or an employee of the Tollway</p> <p>22 might own with your spouse and with a minor child.</p> <p>23 There are exceptions. One of</p> <p>24 the exceptions is an exception for licensed</p>	<p style="text-align: right;">Page 57</p> <p>1 concerned about are commissions and the like and a</p> <p>2 direct benefit coming to you from the contract, as</p> <p>3 opposed to merely salary from the firm.</p> <p>4 And I apologize for going quickly,</p> <p>5 but I think some of these things just don't apply</p> <p>6 to you and -- or they apply to you, but they're not</p> <p>7 going to affect you because you're not going to be</p> <p>8 engaged in contracts with the Tollway. But I</p> <p>9 wanted to make you aware of them.</p> <p>10 This is the definition in the</p> <p>11 General Services Chief Procurement Officer's rules</p> <p>12 concerning distributable income. And, again, it's</p> <p>13 just designed to show that what it is addressed to</p> <p>14 are ownership interests.</p> <p>15 This ties in to what I just</p> <p>16 discussed, which is the exemption for licensed</p> <p>17 professionals, provided that contracts are</p> <p>18 competitively bid and if there are no engineering</p> <p>19 services contracts that are subject to the</p> <p>20 procurement code or QBS law that are competitively</p> <p>21 bid.</p> <p>22 And the General Services CPO rule</p> <p>23 has expanded competitively bid to mean a more</p> <p>24 practical, and I guess commonsensical approach,</p>

<p style="text-align: right;">Page 58</p> <p>1 which is that bid means using any of the 2 competitive selection procedures in the code. 3 And I would argue it also includes 4 the competitive selection procedures that are in 5 the QBS law. 6 And I just want to go back for a 7 second to another comment that Dave made. He was 8 talking about QBS law and the benefits of QBS law 9 and the fact that it's required by state law. 10 It actually, as I discussed in the 11 last session -- I know Dave's well aware of it -- 12 it's not unique to Illinois. It also is embodied 13 in the federal Brooks Act. And the federal Brooks 14 Act applies to -- is applied not only to federal 15 agency contracts, but also applies to federal 16 highway grants and other trans- -- and mass transit 17 grants. 18 CHAIRMAN SCHILLERSTROM: So, in other words, 19 if the state is using -- if a state is using 20 federal money, it applies? 21 MR. GOWER: If a state is using federal money 22 for engineering, architectural, or land surveying 23 contracts, then they're required to follow the 24 Brooks Act.</p>	<p style="text-align: right;">Page 60</p> <p>1 need to stay out of any negotiations you have with 2 that firm. 3 There are addit- -- the Chief 4 Procurement Officer for General Services has 5 actually expanded the statutory prohibitions. I'm 6 not sure that she has the lawful authority to do 7 that, but it's in her rules and it -- this is -- 8 actually, this is the one that she's expanded. 9 This just says that you can't contract with a 10 state -- a member of the state agency's governing 11 board, you can't be directly or indirectly 12 interested. 13 The statute says you can't have a 14 contract. This says directly or indirectly 15 interested. And I would construe that to mean you 16 can't have a subcontract either. 17 But nobody on this Board is involved 18 in contracts or subcontracts with the Tollway. 19 Just going through the litany of what's out there. 20 This is another one where the 21 General Services CPO has expanded the statutory 22 conflict of interest to extend to members of the 23 immediate family of an officer or employee of a 24 state agency or a member of the governing board.</p>
<p style="text-align: right;">Page 59</p> <p>1 And, as I discussed previously, the 2 Brooks Act and the QBS law really are virtually 3 identical. But it's not -- it's a nation -- it's a 4 policy developed and implemented by the federal 5 government for the last 70 years -- I don't 6 remember when the Brooks Act came in, but it's been 7 there quite a while. 8 Okay. Sorry, I diverged again. 9 There is a procedure in 1520 to seek 10 an exemption from the prohibitions in 50-13, and it 11 basically requires the support of one or more of 12 the chief procurement officers to ask for an 13 exemption for a particular situation, and then 14 there has to be a hearing. 15 Typically in my -- in the case I 16 handled, it was an evidentiary hearing before the 17 Executive Ethics Commission. And I found the 18 Executive Ethics Commission to be generally 19 practical in their approach to things. 20 This is something that doesn't -- 21 it doesn't apply to you, it more applies to the 22 Tollway staff, but if you have an engineer who is 23 contemplating leaving the Tollway or is in the 24 process of negotiations for future employment, they</p>	<p style="text-align: right;">Page 61</p> <p>1 So -- and there's -- there is no definition in the 2 statute of what an immediate family member is. 3 And I would -- there are -- I would 4 construe it to mean children and spouses. And 5 that's sort of what's covered in 50-35 of the code, 6 where the disclosures have to be made. But there's 7 no -- no support for that anywhere, there's no 8 definition. 9 I brought with me today, and I 10 just wanted you to get some appreciation for how 11 extensive the disclosures are that your contractors 12 and people doing business with you are. And it 13 extends not only to the company itself, but anybody 14 who has a 7 1/2 percent interest in the company. 15 And I'm going to ask John, when he 16 has a chance, just to make sure that you get a copy 17 of the disclosure form that has to be submitted, 18 and of the statute. And you can see it's pretty 19 thick in terms of what's required to be disclosed. 20 And the disclosure forms -- the 21 disclosures have been expanded to apply not only to 22 contractors, but to subcontractors. 23 So that's -- for example, I talked 24 to you last week about a subcontract -- a public</p>

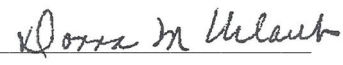
<p style="text-align: right;">Page 62</p> <p>1 relations subcontract issue that had come forward. 2 The disclosures that were made of the relationship 3 to an elected official were made in the subcontract 4 disclosure form. It was submitted to the CPO's 5 office and the -- the Chief Procurement Officer 6 for General Services, and she submitted it to the 7 Procurement Policy Board for review. 8 And Procurement Policy Board is the 9 one who said it's not a conflict under the code, 10 and that subcontract is permissible. 11 CHAIRMAN SCHILLERSTROM: And obviously that's 12 an agency independent of the Tollway. 13 MR. GOWER: Yeah. It's a, you do your work, 14 you collect the forms, you send -- you give the 15 forms to your SPO, which is a supervisory authority 16 over you for procurement purposes, and they sought 17 an opinion from a third party -- because the 18 Procurement Policy Board is completely independent 19 of the CPOs -- and the Procurement Policy Board 20 said it wasn't a problem. 21 All right. Now we're in the, what I 22 consider to be the tougher arena, because the stuff 23 I've talked about doesn't have much appli- -- I 24 mean, it applies to you, but in the real world I</p>	<p style="text-align: right;">Page 64</p> <p>1 not to be a conflict can in fact result in 2 criticism of the entire Board. 3 And so I think you -- I think it 4 would be in the Tollway's best interest to try and 5 get a little bit more guidance on conflict of 6 interest issues for the Board, and to put a little 7 more meat into some of your disclosure -- into your 8 conflict of interest materials that are distributed 9 to the Board to provide some guidance. 10 And that's -- I'm just echoing -- I 11 got one slide ahead of myself -- but I looked at 12 the conflicts disclosure form that you're given, 13 and I think it could be -- it certainly -- you 14 could have more detail put into it to give you some 15 more guidance so that you don't inadvertently walk 16 yourself into a problem or not even think about 17 something in your personal life that could result 18 in criticism of you and/or the Tollway. 19 I don't know how -- what -- how you 20 go about setting up something like this that's sort 21 of critical to the Board. I know I'm general 22 counsel for the Springfield -- outside counsel for 23 the Springfield Mass Transit District. When we -- 24 when we revise bylaws, for example, there's a sub-</p>
<p style="text-align: right;">Page 63</p> <p>1 don't think there are any problems associated with 2 what we just looked at. 3 I told you the last time, you work 4 in a fishbowl, and that, while you, some of you 5 have been elected officials, some of you have not, 6 but the general public and the newspapers view you 7 as politicians, and so ... 8 You're spending -- you are spending 9 a lot of money on road improvements right now, and 10 a lot of money on hiring design consultants to 11 design for the future. And any time you're 12 spending that kind of money, your actions are 13 bound to be subject to some flyspecking by a number 14 of entities and people, and you just need to be 15 prepared for it and accept that. And, 16 unfortunately, that's part of the -- it comes with 17 the territory of being a member of the Board, for 18 better or worse. 19 I talked about a couple of 20 situations the last time. One of the things that 21 struck me that you are confronting right now is 22 that the Board members can differ on the 23 perceptions of what a conflict is. And one Board 24 member's decision on what he or she might consider</p>	<p style="text-align: right;">Page 65</p> <p>1 committee of the board that works with counsel to 2 come up with proposed revisions that are then 3 submitted to the entire board for its review. 4 You may or may not want to -- I 5 would think that if you were going to undertake 6 some review of what your conflict of interest 7 policies are, you'd want one or more Board members 8 meeting with staff to try and get some guidance 9 and also provide some real world situations and 10 considerations. 11 But I'm going to leave it to you in 12 terms of how you go about setting that up. I do 13 think it would be helpful to all of you to have a 14 little bit more guidance and a little bit more 15 definition of situations that you want to avoid or 16 at least be sensitive to. 17 Another thing that I think that 18 could be done to assist, I know that one of the 19 situations we talked about last week was with the 20 criticism for selection of an engineering company. 21 There were recusals that had occurred, but somehow 22 they never made it into the paper in all the 23 newspaper articles that were written about that 24 particular selection.</p>

<p style="text-align: right;">Page 66</p> <p>1 I would suggest that maybe staff get 2 to the Board members -- I don't know whether this 3 is feasible or not from a staff perspective -- but 4 maybe two weeks in advance, staff could get to the 5 Board a list of the contracts coming up and the 6 proposed selection of -- the identification of the 7 vendor, and then give the Board members, give 8 them -- bind yourself to a short turnaround time. 9 I don't know what's reasonable because I don't know 10 your travel schedules or work schedules, but if you 11 can do turnaround, set turnaround in three days for 12 any conflict disclosures, I think you'd protect 13 yourself and help protect the Tollway. It's just a 14 thought. 15 And then when you have those timely 16 disclosures, if you ever run into a situation again 17 where one of the Board members is being raked over 18 the coals because they have a child or a relative 19 at a firm that does business with the Tollway, 20 you're going to have a piece of paper that's done 21 very timely where you've given consideration to 22 that issue, made disclosures and told people you 23 can't be part of that, if that's what you choose to 24 do. So those are --</p>	<p style="text-align: right;">Page 68</p> <p>1 DIRECTOR STEPHENS: The disclosure is the 2 most important part of it. 3 DIRECTOR JOHNSON: Yeah. 4 MR. GOWER: I'll give you a -- the answer to 5 that on a much smaller scale. 6 One of the SMTD board members came 7 to me and said, Ed, my son has -- we're doing 8 different construction projects, and my son is a 9 laborer, and he gets called out of the union hall, 10 and he may get called out of the union hall to work 11 for this particular contractor who's working for us. 12 And I said, that's not a conflict. 13 That person is not in a position to influence the 14 award of that contract, and they're called out on 15 a -- they're not an employee per se of any given 16 company. They're called out from time to time. 17 But, I said, to protect your 18 reputation, what I'd recommend to you is you 19 disclose your son is a laborer and may get called 20 out for work for this contractor. 21 DIRECTOR JOHNSON: You know, I mean, we get 22 dozens of contracts. Every single contract that 23 comes through or something? 24 MR. GOWER: Well, I doubt that IBM is --</p>
<p style="text-align: right;">Page 67</p> <p>1 DIRECTOR JOHNSON: Are you talking mostly 2 about -- I'm sorry. Are you talking mostly about 3 the directors, not employees? At this time, you're 4 talking about directors? 5 MR. GOWER: I am talking about directors. 6 I think that that's -- that's what I was asked to 7 provide advice to. I haven't been asked to provide 8 advice to staff as well, and I know you have 9 competent legal counsel that's available to advise 10 both the staff and the Board. So, no, I'm not -- 11 I'm not talking about staff. 12 DIRECTOR JOHNSON: I mean -- is it okay? 13 CHAIRMAN SCHILLERSTROM: Yeah. 14 DIRECTOR JOHNSON: What happens if you have a 15 child who works for a big firm, and you have -- 16 they have no clue that their firm's -- one of their 17 auxiliary parts of that are part of something like 18 that? I mean, that can happen. Depends on the 19 size of the company you work for. 20 I mean, how would that ever be -- 21 how could you ever account for that? 22 Now, let's say you work for IBM. I 23 mean, they're everywhere. I mean, how could you 24 ever account --</p>	<p style="text-align: right;">Page 69</p> <p>1 DIRECTOR JOHNSON: I just made up IBM. First 2 of all, my kids are all teachers, and one of them 3 is with the Hawks, so I'm not worried about that. 4 I'm just throwing out -- 5 MR. GOWER: You know, you may not know or 6 appreciate that there's even an issue, but no -- 7 look, I would hope that nobody is ever going to 8 criticize a Board member for an award to an 9 engineering firm or a construction company or a 10 public relations firm because a Board member has a 11 son or a daughter that's a secretary at that firm. 12 DIRECTOR JOHNSON: You read the papers? 13 DIRECTOR STEPHENS: It's unfortunate, though, 14 that the perception sometimes is reality in their 15 world, and they don't go through any of that 16 training, any of that conflict of interest 17 training, to be able to really understand it. 18 And they've got the power of the 19 pen. You know, once the disclosure is made and 20 it's on file, I think that that's more than 21 sufficient. 22 MR. GOWER: I think it is too. I'm not -- I 23 mean, you were asking me if -- what if you don't 24 know.</p>

<p style="text-align: right;">Page 70</p> <p>1 DIRECTOR JOHNSON: Yeah. I mean --</p> <p>2 MR. GOWER: I can't -- you can't protect</p> <p>3 yourself against what you don't know. All you</p> <p>4 can do after the fact is say, I didn't know. It</p> <p>5 doesn't matter. It didn't affect my vote. I</p> <p>6 didn't even think -- I didn't even realize that</p> <p>7 there was some tangential relationship to my son or</p> <p>8 daughter's employment.</p> <p>9 DIRECTOR JOHNSON: Okay.</p> <p>10 DIRECTOR VAZQUEZ ROWLAND: So I kind of have</p> <p>11 a question. So far -- I don't know if you're done</p> <p>12 with your presentation.</p> <p>13 MR. GOWER: I'm -- yes.</p> <p>14 DIRECTOR VAZQUEZ ROWLAND: You are? Okay. I</p> <p>15 was waiting for it to come up.</p> <p>16 MR. GOWER: I'm getting to the thank you, I</p> <p>17 think. No, I --</p> <p>18 (Laughter.)</p> <p>19 Why did I put -- my only -- I know</p> <p>20 why I put this in. My only caution to you or note</p> <p>21 to you is that if you develop a more specific</p> <p>22 conflicts of interest policy, and in that conflict</p> <p>23 of interest policy you identify what you</p> <p>24 collectively believe are potential conflicts of</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. GOWER: No, that's all right.</p> <p>2 If there's a procurement ongoing,</p> <p>3 there are laws requiring you to report on</p> <p>4 communications concerning that procurement.</p> <p>5 My counsel to you is if a</p> <p>6 procurement is open, you know you're going to</p> <p>7 have to vote on it, don't talk to anybody who's</p> <p>8 interested in that procurement, and you don't have</p> <p>9 to report anything.</p> <p>10 Now I'm at my thank you. Sorry.</p> <p>11 DIRECTOR VAZQUEZ ROWLAND: So I was waiting,</p> <p>12 and I didn't see anything so far in regards to --</p> <p>13 speaking specifically to a nonprofit.</p> <p>14 I don't know if you were here</p> <p>15 earlier. But clearly a relationship, a contractual</p> <p>16 relationship with a nonprofit typically doesn't</p> <p>17 result in any increase in salary or in, you know,</p> <p>18 income or net worth of the executive director.</p> <p>19 And having been in the business for</p> <p>20 over 25 years of doing the work that we're doing,</p> <p>21 we had an incident where we brought up last month</p> <p>22 at a Board meeting where one of the contractors for</p> <p>23 the Tollway was interested in one of the businesses</p> <p>24 that we are involved in, which is job training</p>
<p style="text-align: right;">Page 71</p> <p>1 interest that either should be disclosed or require</p> <p>2 recusal, there's a rule in the CPO's -- in the</p> <p>3 General Services Chief Procurement Officer's rules</p> <p>4 that says, if you have a policy, then you have to</p> <p>5 give us that policy and you have to give us any</p> <p>6 documents that are submitted in response to that</p> <p>7 policy when a procurement comes up so that we can</p> <p>8 evaluate whether there's a conflict of interest or</p> <p>9 not.</p> <p>10 So not only are they going to sit on</p> <p>11 top of you from a supervisory perspective with</p> <p>12 respect to the statutory disclosures that are made</p> <p>13 and the statutory conflicts of interest that are</p> <p>14 there, but they're going -- they are in a position</p> <p>15 to at least raise questions about whether you</p> <p>16 complied with your own policy even if it goes</p> <p>17 beyond what the law requires.</p> <p>18 DIRECTOR VAZQUEZ ROWLAND: Can I ask a</p> <p>19 question?</p> <p>20 CHAIRMAN SCHILLERSTROM: Yes, you can.</p> <p>21 MR. GOWER: Wait, I didn't get to my thank</p> <p>22 you.</p> <p>23 (Laughter.)</p> <p>24 DIRECTOR VAZQUEZ ROWLAND: Sorry.</p>	<p style="text-align: right;">Page 73</p> <p>1 workforce development, and we brought it up, and it</p> <p>2 ended up not being a conflict.</p> <p>3 But there is nothing that I've read</p> <p>4 so far that speaks to a nonprofit or a board member</p> <p>5 of a nonprofit.</p> <p>6 And at one point someone even had,</p> <p>7 you know, asked about whether or not anyone had</p> <p>8 ever made donations to the nonprofit that may be</p> <p>9 doing business with the Tollway, which is virtually</p> <p>10 impossible for me to know, you know, who's who and</p> <p>11 what businesses they own, especially if they're</p> <p>12 doing it on a personal level.</p> <p>13 So it was -- you know, it is</p> <p>14 something that I think we need to speak to</p> <p>15 specifically. And, you know, in our case as a</p> <p>16 nonprofit, we disclosed, you know, in our 990s, you</p> <p>17 know, all donations above a certain amount, we have</p> <p>18 reporting and reports audits, you know, and things</p> <p>19 like that.</p> <p>20 So we feel that we have a lot of,</p> <p>21 you know, obviously transparency. And having been</p> <p>22 in the business for 25, you know, years of doing a</p> <p>23 lot of this stuff, I'm wondering does it preclude,</p> <p>24 you know, us from moving forward, you know, with</p>

<p style="text-align: right;">Page 74</p> <p>1 the same type of business with because of the 2 relationship that maybe people have with the 3 Tollway. 4 MR. GOWER: There is no law and no 5 administrative rule and no case law in Illinois of 6 which I'm aware that addresses the question that 7 you're asking. And I think that that's a -- I'm 8 just telling you, it's not there. 9 DIRECTOR VAZQUEZ ROWLAND: I'm looking. I'm 10 looking. I can't find it either. 11 MR. GOWER: I think that -- I mean, I can 12 express my personal views on that, but I think you 13 would be better served to address that as part of 14 the development of your policy in terms of how 15 you -- you know, is it -- are there lines across 16 which you shouldn't step. 17 Should -- if you have a charitable 18 organization that you are extremely active in, is 19 it appropriate for you, who vote to approve 20 contracts and award contracts, to solicit funds 21 from a contractor, solicit charitable contributions 22 from an engineering firm. 23 And that's a -- I think that's more 24 a matter of -- it's not a matter of law, it's a</p>	<p style="text-align: right;">Page 76</p> <p>1 7 1/2 percent of the distributable income or 2 7 1/2 percent of the -- excuse me -- or 60 percent 3 of the governor's salary. 4 So if you personally were to, 5 or anybody in your family were to receive 6 7 1/2 percent of the income coming out of that, or 7 \$106,000, then the law says no, you can't do that. 8 And I know you're shaking your head 9 saying I don't get anything from this, but that's 10 the law. 11 The next step then for you is, does 12 it look like somehow this company is advantaged 13 because of my membership on the Tollway Board? 14 DIRECTOR VAZQUEZ ROWLAND: Yeah, no, it -- 15 I'm with you on the fishbowl thing, so I'm just, 16 you know, asking for the purposes of -- you know, 17 just letting you know there is a gap in the -- in 18 the law that doesn't speak specifically to the 19 nonprofit, you know, arena, and even for individuals 20 that are on boards of nonprofits, that, you know, 21 may be, you know, inadvertently creating this 22 fishbowl, you know. 23 MR. GOWER: And the law is never going to -- 24 you know, the law is never going to cover or</p>
<p style="text-align: right;">Page 75</p> <p>1 matter of policy for the Tollway collectively to 2 address and try and come up with a workable 3 solution to the dilemma that you just identified. 4 DIRECTOR VAZQUEZ ROWLAND: Especially since 5 these relationships pre-date the Tollway, right? 6 So it's just an interesting dilemma, you know, that 7 we need to figure out. 8 In addition, we have an unusual 9 situation which, we haven't done this yet, but I 10 have a landscaping company that's in the business 11 of doing public contracting. It hasn't bid 12 anything on the Tollway specifically for that 13 reason; but, you know, again, it's a nonprofit 14 business that's in the business of job training. 15 It's a job training program that pays its workers. 16 So would that be considered, you know, a conflict? 17 MR. GOWER: Well, it -- you now are walking 18 back -- I mean, from a legal perspective -- again, 19 not perception, from a legal perspective -- you 20 walk back into 50-13(b) of the code. And 50-13(b) 21 of the code says that that company is ineligible 22 to do work for the Tollway if an officer or an 23 employee or spouse or minor child of an officer 24 or employee of the Tollway is entitled to</p>	<p style="text-align: right;">Page 77</p> <p>1 prohibit things that the public or the newspapers 2 may perceive to be conflicts. And so that's why 3 the Board, as a matter of policy, has to develop 4 its own conflict of interest -- I suggest you 5 develop your own conflict of interest policy to 6 discuss -- 7 DIRECTOR VAZQUEZ ROWLAND: And I think that 8 is important for -- you know, there needs to be 9 something for the media to understand the 10 difference, right? So this is a nonprofit 11 leadership board member, executive director, 12 president, doesn't personally benefit from anything 13 that would, you know, bring resources to a charity. 14 MR. GOWER: You know what; I'm going to tell 15 you, you're getting into the policy issues that I 16 think are yours and yours alone to address. 17 I've told you what the law is. What 18 you described is not contrary to the law. Now you 19 need to figure out, as a policy perspective, what's 20 the Board's position. 21 And that's why I think it's to 22 your -- it's to your benefit to have a collective 23 decision as to what's appropriate policy for the 24 Board so you're not standing out alone on a</p>

<p style="text-align: right;">Page 78</p> <p>1 surfboard.</p> <p>2 DIRECTOR VAZQUEZ ROWLAND: Agreed.</p> <p>3 Thank you.</p> <p>4 CHAIRMAN SCHILLERSTROM: Any other questions</p> <p>5 for Mr. Gower?</p> <p>6 (No response.)</p> <p>7 Well, thank you once again very</p> <p>8 much, Ed, for coming and talking to us. We greatly</p> <p>9 appreciate your knowledge and your opinions, and</p> <p>10 certainly I think, as we sit here today, we have</p> <p>11 one thing that we know we should probably take a</p> <p>12 look at, and that's our conflict of interest. Not</p> <p>13 only our current processes that we could document</p> <p>14 better, but maybe some changes that we can make.</p> <p>15 And I think when we get to the</p> <p>16 portion of this Committee when we're done sort of</p> <p>17 taking testimony and making decisions, that's</p> <p>18 clearly one of the things that we should be</p> <p>19 addressing first and foremost.</p> <p>20 MR. GOWER: Well, again, Mr. Chairman, thank</p> <p>21 you. Thank you for the opportunity to talk to you.</p> <p>22 I'm sorry I don't have answers to all of your</p> <p>23 questions, but some of this are, as I said, are</p> <p>24 policy issues that the Board is going to have to</p>	<p style="text-align: right;">Page 80</p> <p>1 on conflicts and procurement.</p> <p>2 And then after that, I would</p> <p>3 contemplate at some point that we would probably</p> <p>4 have an additional meeting certainly to discuss</p> <p>5 some recommendations and some things that we may</p> <p>6 want to refer to the Board as a whole for final</p> <p>7 action.</p> <p>8 So, having said those things, is</p> <p>9 there any comment or other business that --</p> <p>10 unfinished business that the Board may want to</p> <p>11 bring up at this point?</p> <p>12 DIRECTOR JOHNSON: Mr. Chairman, if I could.</p> <p>13 CHAIRMAN SCHILLERSTROM: Yes.</p> <p>14 DIRECTOR JOHNSON: As I stated somewhat at</p> <p>15 the last meeting, and since I am unable to attend</p> <p>16 the next meeting due to a business conflict, I want</p> <p>17 to say to the staff again, and you, Mr. Chairman,</p> <p>18 hearing what goes on, and the double checking, the</p> <p>19 independent reviews by the State and all that, I am</p> <p>20 extremely impressed at everything that goes on.</p> <p>21 Paul, I said to you last time, I say</p> <p>22 again, I think you are a phenomenal department,</p> <p>23 everything you do, your oversight and everything.</p> <p>24 Hearing from the professionals</p>
<p style="text-align: right;">Page 79</p> <p>1 grapple with. And they're not easy policy issues.</p> <p>2 But I'm flattered to be asked to</p> <p>3 come in, and thanks for the opportunity.</p> <p>4 CHAIRMAN SCHILLERSTROM: We're grateful.</p> <p>5 Thank you.</p> <p>6 All right. That is -- we did not</p> <p>7 have any other individuals who had planned on</p> <p>8 speaking to us today.</p> <p>9 I want to thank once again everybody</p> <p>10 else who did come. They've given us additional</p> <p>11 food for thought, and certainly it does appear,</p> <p>12 from what we've heard so far, that our position</p> <p>13 that we have been following all of the laws has</p> <p>14 been and continues to be borne out; but, you know,</p> <p>15 we have now heard some recommendations for some</p> <p>16 things that we can maybe change to make us better.</p> <p>17 So I think the Committee is at least starting out</p> <p>18 to work the way that we had hoped to.</p> <p>19 At this point we have another</p> <p>20 meeting scheduled for next week, and I think that,</p> <p>21 you know, the three items that we've had on our</p> <p>22 focus area, which is procurement, conflict, and</p> <p>23 also hiring, we'll probably talk about hiring next</p> <p>24 week, and also we may have some additional comment</p>	<p style="text-align: right;">Page 81</p> <p>1 today, the businesses that come, especially the</p> <p>2 heads of the entire thing for the State, the</p> <p>3 Tollway should be very proud.</p> <p>4 I'm talking as the Mayor of a town</p> <p>5 for 22 years now, and I know about contracts,</p> <p>6 procurements, all the rest. The Tollway does an</p> <p>7 absolute phenomenal job. It's like anything; I can</p> <p>8 show a picture to 50 people and they're going to</p> <p>9 see 50 different things. And, unfortunately, some</p> <p>10 people in a profession who needs to sell things</p> <p>11 state things the way they want to see it. But in</p> <p>12 the real world, you guys do an absolute phenomenal</p> <p>13 job, the checks and balances. I'm impressed.</p> <p>14 Mr. Chairman, I acquiesce to you as</p> <p>15 far as doing some fine tuning and stuff like that,</p> <p>16 but I think right now we have a pretty solid base</p> <p>17 as far as what we do. We should be very proud of</p> <p>18 what we do; and, Paul, you should be very proud of</p> <p>19 what you do. I'm impressed beyond belief at the</p> <p>20 things we have now. And I just want to commend you</p> <p>21 again because I think sometimes you're unfairly</p> <p>22 singled out, and you shouldn't be. You do a very</p> <p>23 good job and I'm proud of you.</p> <p>24 MR. KOVACS: I credit a lot to the staff also.</p>

<p style="text-align: right;">Page 82</p> <p>1 DIRECTOR JOHNSON: When I talk to you, you 2 are staff; that's what I'm saying. You're a 3 reflection of the staff as well. So I just want to 4 make sure that's well known, Mr. Chairman. 5 Thank you. 6 CHAIRMAN SCHILLERSTROM: Thank you. 7 DIRECTOR VAZQUEZ ROWLAND: Can I mention 8 something? 9 CHAIRMAN SCHILLERSTROM: You may. 10 DIRECTOR VAZQUEZ ROWLAND: I just want to 11 echo what was just said by the Mayor and the 12 Director. We have -- you know, as a Director, you 13 know, I have, you know, just the incredible honor 14 of working with all of you and knowing that 15 whenever we have a question, that you take your 16 time to answer it in a way that, you know, we 17 understand, and allows us to make good decisions as 18 Board members. 19 So I want to just commend you all 20 because, like I said, you know, it is -- not only 21 are you responsive to the vendors, which is what 22 we're really, really obviously all here for, and 23 for getting the work done, but also to the Board 24 members in making sure that we have total clarity</p>	<p style="text-align: right;">Page 84</p> <p>1 Hearing nothing, is there any new 2 business to come before the Committee? 3 (No response.) 4 We do not have any items for 5 executive session. So if there is nothing else at 6 this point, I would once again thank the staff, 7 thank the members of the Committee, and thank our 8 outside speakers, and ask for a motion to adjourn. 9 DIRECTOR JOHNSON: So move. 10 DIRECTOR STEPHENS: Second. 11 CHAIRMAN SCHILLERSTROM: So moved and 12 seconded. 13 Is there any discussion? 14 (No response.) 15 Hearing nothing, all those in favor 16 of adjourning as moved, please state aye. 17 (Chorus of ayes.) 18 Opposed? 19 (No response.) 20 And I thank you. 21 (The proceedings adjourned 22 at 11:16 a.m.) 23 24</p>
<p style="text-align: right;">Page 83</p> <p>1 as we have to make decisions, you know. And I 2 really appreciate that. 3 So thank you. 4 CHAIRMAN SCHILLERSTROM: Well, thank you. 5 Any other -- before I turn it over 6 to the Executive Director, any other comment from 7 the Board members regarding the presentations that 8 we heard today? 9 (No response.) 10 Okay. Ms. Gorman, you've been asked 11 to staff this, and thank you very much for the hard 12 work that you and your staff have put in. 13 Do you have any comment or additions 14 you'd like to make? 15 DIRECTOR GORMAN: No. I just thank the 16 speakers, Eileen and Luis, for coming out, and your 17 input, Ed Gower, Dave Bender, thank you so much. 18 We'll keep you posted, as the Chairman said, on 19 upcoming meetings, and have it appropriately 20 posted, and look forward to next week. 21 CHAIRMAN SCHILLERSTROM: Okay. Thank you. 22 Is there any unfinished business to 23 come before the Committee today? 24 (No response.)</p>	<p style="text-align: right;">Page 85</p> <p>1 2 REPORTER'S CERTIFICATE 3 4 I, Donna M. Urlaub, do hereby certify that 5 I reported in shorthand the proceedings of said 6 hearing as appears from my stenographic notes so 7 taken and transcribed under my direction. 8 9 IN WITNESS WHEREOF, I have hereunto set my 10 hand and affixed my seal of office at Chicago, 11 Illinois, this 26th day of August 2018. 12 13  14 Illinois CSR No. 084-000993 15 16 17 18 19 20 21 22 23 24</p>

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Urlaub Bowen & Associates, Inc. 312-781-9586

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THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

TOLLWAY AD HOC OPERATIONS
REVIEW COMMITTEE

Tollway Headquarters
2700 Ogden Avenue
Downers Grove, IL 60515

Wednesday, August 29, 2018
10:30 a.m.

PRESENT:

- Bob Schillerstrom, Chairman
 - Elizabeth Gorman, Executive Director
 - Bradley Stephens, Director
 - James J. Banks, Director
- Board Secretary: Christi Regnery

Reported by: Donna M. Urlaub
CSR No. 084-000993

<p style="text-align: right;">Page 2</p> <p>1 CHAIRMAN SCHILLERSTROM: We'll call the 2 meeting to order, and I'd ask everyone to rise for 3 the pledge, please. 4 (Pledge of Allegiance.) 5 CHAIRMAN SCHILLERSTROM: Madam Clerk, will 6 you call the roll, please. 7 SECRETARY REGNERY: Director Banks. 8 DIRECTOR BANKS: Here. 9 SECRETARY REGNERY: Director Johnson. 10 (No response.) 11 Director Stephens. 12 DIRECTOR STEPHENS: Here. 13 SECRETARY REGNERY: Chairman Schillerstrom. 14 CHAIRMAN SCHILLERSTROM: Here. 15 SECRETARY REGNERY: Mr. Chairman, we have a 16 quorum. 17 CHAIRMAN SCHILLERSTROM: Very well. 18 So at this time we would ask if 19 there is any public comment. 20 At each of our meetings we provide a 21 period of time for public comment. 22 If you'd like to speak to us on any 23 subject, we are anxious to hear what you have to 24 say.</p>	<p style="text-align: right;">Page 4</p> <p>1 are done. And then we're also looking to experts 2 outside to render opinions to us. 3 And then ultimately what we intend 4 to do is to take all of this information, turn it 5 over to our staff, and ask them to come back to us 6 with some recommendations for things that we can do 7 to make the Tollway function better. 8 So we have a number of speakers 9 today that we are very interested in hearing. And 10 we will probably at that point, after this meeting, 11 ask our staff to take a look at things, and we may 12 very well have another meeting and invite other 13 speakers, or we may be in a position to have the 14 Committee make recommendations to the Toll Board as 15 a whole. 16 So at this point, if there are no 17 questions or comments from the Committee, I would 18 ask Mr. John Njord, who is an engineer and the 19 former Secretary of Transportation of the State of 20 Utah, to come forward; and he's going to talk to us 21 a little bit about procurement. 22 And I want to start out by thanking 23 him very much for being here today, giving us his 24 time and also his expertise.</p>
<p style="text-align: right;">Page 3</p> <p>1 We ask you to fill out a yellow 2 card, but if you don't want to fill one of those 3 out, you don't have to. 4 We'd ask you to go up there and 5 speak in the microphone so that we can see you and 6 hear you. 7 Is there anybody that wants to talk 8 to us? I don't think we have any yellow cards 9 (No response.) 10 All right. Well, we will then move 11 on. 12 So this is our third meeting. And I 13 just want to make it clear that we are not done, 14 that we continue to look at our operations both 15 internally and externally, obtaining opinions from 16 others. 17 As I've said before, we firmly 18 believe that we are following the law. And that's 19 always our number one rule is to do that. But we 20 recognize the fact that there may be things that we 21 can do better. 22 So we are trying to -- we're looking 23 at our current operations by having people who work 24 with us and for us come in and explain how things</p>	<p style="text-align: right;">Page 5</p> <p>1 So, Mr. Njord, the floor is yours. 2 MR. NJORD: Is this where you want me, 3 Mr. Chairman? 4 CHAIRMAN SCHILLERSTROM: That's a great place. 5 MR. NJORD: Thank you. It's a pleasure to be 6 here with you this morning. 7 My name is John Njord. As the 8 Chairman mentioned, I'm an engineer. I served as 9 the Director, Executive Director of Transportation 10 in Utah for twelve years. I was appointed to the 11 position by four different governors over a span of 12 twelve years. 13 So it's a pleasure to be here with 14 you today and to give you some of my thoughts 15 regarding your processes. I have some thoughts 16 that I want to share with you, but I really want to 17 be able to answer your questions or to respond to 18 your concerns that you might have. 19 I've had a chance to look at your 20 processes, and I must tell you that there are some 21 aspects of your processes that are really -- 22 they're different than other places around the 23 country, and I would say the rest of the country 24 could probably learn something from what you're</p>

<p style="text-align: right;">Page 6</p> <p>1 doing here.</p> <p>2 I think there's some state of the</p> <p>3 practice things that you're doing here. I also</p> <p>4 have recommendations for some minor improvements.</p> <p>5 So let me just first start by</p> <p>6 saying, you know, you're looking at me, you're</p> <p>7 saying, oh, well, what do they know about</p> <p>8 delivering big projects in the state of Utah, that</p> <p>9 backwater ...</p> <p>10 Well, we know quite a bit.</p> <p>11 CHAIRMAN SCHILLERSTROM: Actually, we're not</p> <p>12 saying that, we're not thinking that.</p> <p>13 (Laughter.)</p> <p>14 But go ahead.</p> <p>15 MR. NJORD: Over my years as the executive</p> <p>16 director, we delivered many, many billions of</p> <p>17 dollars, many multi-billion dollar projects.</p> <p>18 Most of them were delivered using</p> <p>19 alternative procurement methods, which I'll talk</p> <p>20 about briefly at the end of my comments. But we</p> <p>21 know a little bit about what we're doing out there,</p> <p>22 and have been doing it for many, many years.</p> <p>23 So with maybe that introduction,</p> <p>24 let me talk a little bit about your process here.</p>	<p style="text-align: right;">Page 8</p> <p>1 has a law similar to the Brooks Act. Here in the</p> <p>2 state of Illinois you have a law like that that</p> <p>3 requires you to hire consultants based on</p> <p>4 qualifications.</p> <p>5 Now, let me talk a little bit about</p> <p>6 the importance of selecting engineering firms based</p> <p>7 on qualifications.</p> <p>8 So, you know, I must tell you, in my</p> <p>9 many years of experience, I have asked myself the</p> <p>10 question, Well, isn't there a better way? Is there</p> <p>11 a better way to select engineering firms than just</p> <p>12 purely based on their qualifications?</p> <p>13 And when you look at it in the</p> <p>14 purest form, there really -- this is the best way</p> <p>15 to do it. And there's a reason why nearly every</p> <p>16 state in the country has a law that mirrors the</p> <p>17 Brooks Act; and that is because when you hire a</p> <p>18 consultant, you don't want to get the least</p> <p>19 expensive design, you don't want to hire</p> <p>20 inexperience, or you don't want to hire the wrong</p> <p>21 experience to deliver your project.</p> <p>22 You think about a bridge within your</p> <p>23 system, within your Tollway. You've got bridges</p> <p>24 in your system that are carrying a quarter of a</p>
<p style="text-align: right;">Page 7</p> <p>1 So you -- this business of hiring</p> <p>2 engineers is not obscure, nor is it different than</p> <p>3 anywhere around the country. And, frankly, the</p> <p>4 business of hiring engineers within an organization</p> <p>5 like this is standard, it happens everywhere, and</p> <p>6 it's ideal -- it's an ideal public/private</p> <p>7 partnership because really you shouldn't staff for</p> <p>8 the peaks of your work. You hire consultants for</p> <p>9 the peaks; you staff just for the medium range work.</p> <p>10 So what you're doing is very similar</p> <p>11 to everywhere around the country, which, by the</p> <p>12 way, I -- in the last five years I've worked in</p> <p>13 just about every state across the country, done a</p> <p>14 little bit of consulting. So I sort of know how</p> <p>15 they operate as well.</p> <p>16 So your business of hiring</p> <p>17 consultants is normal. Now, your process of</p> <p>18 selecting consultants is also very normal.</p> <p>19 So this -- you're aware of the</p> <p>20 Brooks Act, perhaps. The Brooks Act is an act of</p> <p>21 Congress that requires that if it's a federal aid</p> <p>22 project, you select engineering firms based on</p> <p>23 qualifications.</p> <p>24 Virtually every state in the country</p>	<p style="text-align: right;">Page 9</p> <p>1 million cars a day.</p> <p>2 Do we want a bridge that's designed</p> <p>3 by someone just right out of college? Might be</p> <p>4 cheap to hire. But we're going to have a quarter</p> <p>5 of a million people who put their lives in our</p> <p>6 hands every single day as they cross that bridge.</p> <p>7 Let's make sure it's done right.</p> <p>8 And that's where you hire</p> <p>9 experience, you hire based on their qualifications.</p> <p>10 You don't want to hire somebody that's just cheap;</p> <p>11 you want to hire somebody that knows what they're</p> <p>12 doing.</p> <p>13 The economy of the State of Illinois</p> <p>14 and the safety of the citizens of this state are</p> <p>15 more important than that.</p> <p>16 The other aspect of hiring based on</p> <p>17 qualifications is you do want to be concerned about</p> <p>18 costs. And you think about the cost of engineering</p> <p>19 in terms of the life of a project, it's very small.</p> <p>20 You can hire an engineer for cheap,</p> <p>21 but in the long term it will cost you much, much</p> <p>22 more. So do you save a penny on engineering and</p> <p>23 spend a dollar in operations and maintenance? I</p> <p>24 don't think that's wise, nor is it really prudent</p>

<p style="text-align: right;">Page 10</p> <p>1 or a good selection for a public agency to do.</p> <p>2 So let's see. The other aspect of</p> <p>3 hiring based on qualifications is if you're hiring</p> <p>4 solely based upon the cost, you may inhibit those</p> <p>5 smaller firms from really competing. The large</p> <p>6 firms from around the country can come in with</p> <p>7 their vast array of engineering staff, they can</p> <p>8 undercut a local engineering firm.</p> <p>9 And I know that you guys are really</p> <p>10 doing a terrific job in terms of hiring</p> <p>11 disadvantaged businesses. When I look at the array</p> <p>12 of engineering firms that are working currently for</p> <p>13 the Tollway Authority, it's really -- it's really</p> <p>14 stunning. You have a wide array of engineering</p> <p>15 firms, and I think it is a tribute to your ability</p> <p>16 to really target firms that are disadvantaged and</p> <p>17 put them to work.</p> <p>18 If you were to go to a cost-based-</p> <p>19 only selection process, you will disadvantage those</p> <p>20 firms because in many cases they won't be able to</p> <p>21 compete.</p> <p>22 Okay. So I have a couple of</p> <p>23 recommendations. There's -- I think there are some</p> <p>24 things that you do that you should not stop doing,</p>	<p style="text-align: right;">Page 12</p> <p>1 Now, when I analyzed your system, I</p> <p>2 also -- I couldn't find from reading -- and maybe</p> <p>3 it exists, I don't know, Mr. Chairman, it could</p> <p>4 exist -- but I could not find a process by which</p> <p>5 the consultant could come back to the agency during</p> <p>6 the procurement process and voice a concern.</p> <p>7 You think about it, during this</p> <p>8 procurement process, really a consultant's hands</p> <p>9 are, okay, just stay away from everybody because I</p> <p>10 don't know who's on the selection board. So who</p> <p>11 can I contact?</p> <p>12 So perhaps you may want to consider,</p> <p>13 is there a process by which a consultant can</p> <p>14 contact the agency and safely know that this</p> <p>15 person's not involved with the selection process?</p> <p>16 CHAIRMAN SCHILLERSTROM: And that would be</p> <p>17 somebody -- you know, in a situation where somebody</p> <p>18 who had questions or concerns, just somebody to</p> <p>19 talk to about anything that came up?</p> <p>20 MR. NJORD: Anything at all.</p> <p>21 CHAIRMAN SCHILLERSTROM: Okay.</p> <p>22 MR. NJORD: I mean, you think about it,</p> <p>23 Mr. Chairman, who do they call? And I couldn't</p> <p>24 discover that in your process. And maybe that</p>
<p style="text-align: right;">Page 11</p> <p>1 and let me talk about those.</p> <p>2 First of all, you have a process</p> <p>3 right now of selecting consultants using a three-</p> <p>4 tiered process. In that third tier you have a</p> <p>5 selection team that actually makes the selection of</p> <p>6 the consulting engineering -- or the consulting</p> <p>7 engineering firm.</p> <p>8 The team members that are part of</p> <p>9 that selection team, currently you -- sometimes you</p> <p>10 disclose them, their names, sometimes you don't.</p> <p>11 Best practices across the country</p> <p>12 are you don't disclose those names during the</p> <p>13 procurement process. It's absolutely critical</p> <p>14 that we don't have any interaction between the</p> <p>15 consulting firms and the selection team members</p> <p>16 during the procurement process.</p> <p>17 However, once the procurement is</p> <p>18 finalized, there's no reason why those names could</p> <p>19 not be disclosed. And it happens across the</p> <p>20 country.</p> <p>21 I don't think you need to be worried</p> <p>22 about disclosing the names of the team members at</p> <p>23 the end of the process. Okay? But certainly</p> <p>24 during the process you wouldn't want to do that.</p>	<p style="text-align: right;">Page 13</p> <p>1 exists, but that's -- it's worth peeling back the</p> <p>2 onion a little bit on that.</p> <p>3 CHAIRMAN SCHILLERSTROM: Arguably, if you</p> <p>4 couldn't find it, people with questions couldn't</p> <p>5 find it either.</p> <p>6 MR. NJORD: Perhaps.</p> <p>7 Okay. Now, you have a process which</p> <p>8 I mentioned earlier I think is something the rest</p> <p>9 of the country could learn from. And that is this</p> <p>10 process of determining whether or not there's a</p> <p>11 conflict of interest.</p> <p>12 You have an outside agency that</p> <p>13 actually makes that determination in your process.</p> <p>14 I don't know everyone's process as well as, you</p> <p>15 know, a few, but I'm unaware of anywhere else that</p> <p>16 has this outside procurement agency that determines</p> <p>17 whether or not there's a conflict of interest.</p> <p>18 I suggest that that's -- that's a</p> <p>19 pretty good practice. That's one of those, you</p> <p>20 know, best practices that you have here in the</p> <p>21 state, and I think it's one that you should rely</p> <p>22 upon.</p> <p>23 You know, these folks give a layer</p> <p>24 of insulation for the selection team to ensure</p>

<p style="text-align: right;">Page 14</p> <p>1 themselves that there are no conflicts of interest.</p> <p>2 Of course, there's disclosures that are taking</p> <p>3 place as well, and they take that all into</p> <p>4 consideration.</p> <p>5 Okay. Another suggestion that I</p> <p>6 have that I think could be of value in this</p> <p>7 process. So in this three-tiered process, you have</p> <p>8 three tiers of evaluations when you're looking at</p> <p>9 engineering consulting firms.</p> <p>10 The first tier is the largest tier.</p> <p>11 You have -- you know, you have folks that are</p> <p>12 working at the ground level, if you will, within</p> <p>13 the agency, and they're making evaluations.</p> <p>14 Communication between that team and</p> <p>15 the ultimate selection team I think could be</p> <p>16 improved.</p> <p>17 So currently, the way I understand</p> <p>18 it and the way I read it through your process, is</p> <p>19 they prepare a summary document. That summary</p> <p>20 document is delivered to the selection team, and</p> <p>21 the selection team reviews that summary document;</p> <p>22 but they may not understand the words that are</p> <p>23 between the lines. And I think there might be an</p> <p>24 opportunity for a little better communication</p>	<p style="text-align: right;">Page 16</p> <p>1 folks to submit their proposals to you. It's a</p> <p>2 pretty -- if you've never sat in a consultant's</p> <p>3 chair, it's pretty intense. When you decide that</p> <p>4 you're going to bid on a project, you put a lot of</p> <p>5 effort into it.</p> <p>6 Now, if you were to put all of your</p> <p>7 efforts into every single one of those bulletins,</p> <p>8 you'd be out of business pretty soon. You can't</p> <p>9 afford to do that. So they have to be very</p> <p>10 selective about the projects that they're going to</p> <p>11 go after that they think they have the best</p> <p>12 opportunity.</p> <p>13 So what I want to talk to you about</p> <p>14 is a pool contracting idea. So the idea behind a</p> <p>15 pool contract is that you hire engineering firms --</p> <p>16 well, you put out a bulletin and you say, okay,</p> <p>17 I need -- I need engineering firms that have</p> <p>18 expertise in geotechnical, in design engineering,</p> <p>19 in bridge engineering, in structural analysis, in,</p> <p>20 you know, traffic analysis, all of the different</p> <p>21 fields that we are associated with in our business,</p> <p>22 and you say we need experts in all of these areas.</p> <p>23 The engineering firms respond to</p> <p>24 this bulletin, they put together a very generic</p>
<p style="text-align: right;">Page 15</p> <p>1 between tier one and tier three.</p> <p>2 Of course, tier one and tier two I</p> <p>3 think communicate fairly well; but between tier one</p> <p>4 and tier three.</p> <p>5 I've seen some practices like that</p> <p>6 across the country, and I think there's value in</p> <p>7 having that communication and understanding,</p> <p>8 actually, what people at the first level are</p> <p>9 thinking about these consulting engineering firms.</p> <p>10 Now, the next suggestion that I have</p> <p>11 for you is something that may be very different or</p> <p>12 you may have never heard of before, but it's a best</p> <p>13 practice I've seen used, and it's one that I think</p> <p>14 you may want to consider here if it's within the</p> <p>15 law.</p> <p>16 I didn't have time really to dig</p> <p>17 into this as to whether or not you could do this</p> <p>18 within the procurement laws that you have.</p> <p>19 As I mentioned before, you do a</p> <p>20 terrific job of hiring minority consultants. There</p> <p>21 is an opportunity, I think, to enhance that even</p> <p>22 further.</p> <p>23 So you have all these bulletins</p> <p>24 throughout the year, and you have opportunities for</p>	<p style="text-align: right;">Page 17</p> <p>1 sort of proposal, and then they're put into a pool.</p> <p>2 Now, once they're in a pool, then</p> <p>3 the agency can come to that pool from time to time</p> <p>4 and they say, You know what? I need some geo-</p> <p>5 technical expertise, and I need it right now.</p> <p>6 They go to the pool, and in the same</p> <p>7 time -- actually, much faster -- in a matter of</p> <p>8 weeks you can have a contractor on board and</p> <p>9 working.</p> <p>10 Whereas the current process of</p> <p>11 bulletin, selection, evaluation, hiring, that's</p> <p>12 many months long. I don't know how long it is</p> <p>13 here, but it looked to me like it could take a very</p> <p>14 long time to do that.</p> <p>15 So the pool contract is a great</p> <p>16 opportunity to do small contracts, and it's</p> <p>17 really -- it's ideal for minority contractors or</p> <p>18 smaller fledgling firms that are trying to break</p> <p>19 into the industry because you just put them to work</p> <p>20 on a little thing.</p> <p>21 You're a structural engineer; give</p> <p>22 me some structural engineering.</p> <p>23 You're a traffic engineer; give me</p> <p>24 some traffic engineering.</p>

<p style="text-align: right;">Page 18</p> <p>1 So I've seen this be successful, and 2 that's something that you may want to consider. 3 And, once again, you'd have to look at your laws to 4 see whether or not that would be an advantage to 5 you, or even if you're able to do that. 6 Okay. Now, I also want to mention 7 to you something that you may say, Well, this 8 doesn't really belong in this discussion. But I 9 think it does, and I'll draw it back together in a 10 moment. 11 Currently the State of Illinois 12 prohibits you from bidding any of your projects 13 other than the traditional design-bid-build 14 process, low bid. 15 There are alternative procurement 16 methods that have been used for decades across 17 the country that are in many cases much better, 18 depending on the project. 19 You think about the contracting 20 model, what you're really trying to accomplish in a 21 contracting model is you are shifting risk to a 22 contractor. 23 Under design-bid-build, which is 24 what you do, all of your projects, the way I could</p>	<p style="text-align: right;">Page 20</p> <p>1 that I was involved with back in my home state. We 2 anticipated that that project would cost well over 3 \$2 billion. And we anticipated that it would cost 4 somewhere in the range of about 12 years of our 5 time to build. 6 We built it in four years. Four 7 years. It was in advance of the 2002 Winter 8 Olympics, and it was completed on time, under 9 budget, great quality; we've been driving on the 10 facility for many, many years now. 11 This was one of the first design- 12 build projects in the country, and since that time 13 we've delivered who knows how many design-build 14 CM/GC projects in my home state across the country. 15 It's a great tool and, when used 16 appropriately, it is the right tool for risky 17 projects, which you all have. 18 So I know that that's not within 19 your bailiwick right now, but I think it's 20 something worth procuring and worth working with 21 your legislators to see if you can get the 22 authority to do so. 23 The last recommendations I have for 24 you; once again, I don't know if procurement laws</p>
<p style="text-align: right;">Page 19</p> <p>1 see it -- and they're all design-bid-build -- you 2 retain a great deal of risk. You don't transfer 3 nearly as much risk to the contractor or to the 4 design firm. 5 Under these alternative procurement 6 processes, including design-build, CM/GC, CMAR, 7 design-bid-build-operate-maintain, all of these 8 other alternative procurement methods, you find a 9 tremendous opportunity to transfer risk and to 10 enhance the quality of your projects and also speed 11 them up tremendously. 12 So you think about design-build, 13 okay? 14 Under design-bid-build, the way you 15 operate today, you have to have a complete set of 16 plans before you ever bid it. 17 In design-build, when the ink is dry 18 on the paper, they're building it. So they take a 19 sheet, they print it off, this is your design for 20 that piece of road, they're building it the next 21 day. 22 So you crunch the time significantly 23 that is required to build a particular project. 24 I think about a \$1.6 billion project</p>	<p style="text-align: right;">Page 21</p> <p>1 will allow you to do this, but I think it's worth 2 considering. 3 Oh, wait a minute. Before I leave 4 that design-build discussion, when you hire a 5 consulting firm for design-build, you hire 6 simultaneously the engineer and the contractor. 7 You're hiring a team. And you're hiring them based 8 on their qualifications to procure the project. 9 So some hybrid design-build 10 processes allow you to negotiate all the way up to 11 the very end on what the cost will be; it's called 12 a progressive design-build. I've seen some great 13 success in that process. So it fits into this 14 discussion of procuring consulting firms because 15 it's a different way of handling it, it's a more 16 creative way of handling it, and it's a more cost 17 effective way of doing the work. 18 CHAIRMAN SCHILLERSTROM: So in Utah, did you 19 have a progressive design-build statute? 20 MR. NJORD: Oh, yeah. It was design-build, 21 and we had full leisure to do progressive design- 22 build, lump sum design-build, CM/GC, CMAR, the 23 whole thing. 24 CHAIRMAN SCHILLERSTROM: So you felt that the</p>

<p style="text-align: right;">Page 22</p> <p>1 Utah statute is a good prototype to look at.</p> <p>2 MR. NJORD: It's a good one, yeah. I think</p> <p>3 there are others around the country, but we've, you</p> <p>4 know -- I hesitate to blow my own horn or my</p> <p>5 state's own horn, but we've been doing it longer</p> <p>6 than anybody.</p> <p>7 CHAIRMAN SCHILLERSTROM: Well, you know, we</p> <p>8 all know that the wheel's been invented. We don't</p> <p>9 need to reinvent it. And if you got something that</p> <p>10 works and it's been tested by time, then it's</p> <p>11 always something good to look at.</p> <p>12 So yours is an old statute that's</p> <p>13 been around for a while and been tested?</p> <p>14 MR. NJORD: Yes.</p> <p>15 You know, I'm glad you mentioned</p> <p>16 that, Mr. Chairman, because we do learn a lot from</p> <p>17 each other around the country.</p> <p>18 As I was flying in -- actually,</p> <p>19 I flew in this morning. As I was flying into</p> <p>20 Chicago, I was thinking, what have I learned from</p> <p>21 Chicago that has been significant in my career?</p> <p>22 And I just thought of two things,</p> <p>23 and I'll share these with you just briefly, just</p> <p>24 off the cuff here.</p>	<p style="text-align: right;">Page 24</p> <p>1 team back home and I said, Hey, you need to go find</p> <p>2 these people over there in Illinois that are doing</p> <p>3 this, find out how they're doing it, and I want to</p> <p>4 replicate this back in our home state.</p> <p>5 We have 300 miles, 300 lane miles</p> <p>6 of express lanes in Utah as a result of a cab ride</p> <p>7 from O'Hare to Chicago.</p> <p>8 So we do; we learned a lot from each</p> <p>9 other, and we don't need to reinvent the wheel</p> <p>10 because every single agency across the country</p> <p>11 struggle with the same thing. So if somebody else</p> <p>12 has figured it out, darn it, let's figure it out.</p> <p>13 You know, they have already figured it out; let's</p> <p>14 just follow them.</p> <p>15 CHAIRMAN SCHILLERSTROM: Well, we'll take a</p> <p>16 look at your statute.</p> <p>17 MR. NJORD: Great.</p> <p>18 CHAIRMAN SCHILLERSTROM: So that will be a</p> <p>19 good idea.</p> <p>20 MR. NJORD: So my last recommendations are</p> <p>21 two.</p> <p>22 Our customers are very interested</p> <p>23 in us delivering our projects quickly and</p> <p>24 efficiently. Nobody likes to see orange barrels,</p>
<p style="text-align: right;">Page 23</p> <p>1 When we hosted the Winter Olympics</p> <p>2 in 2002, we called upon our friends across the</p> <p>3 country, come help us, please. We need some help.</p> <p>4 This is going to be really hard.</p> <p>5 And Illinois responded to the call.</p> <p>6 They sent us some of their highway helpers -- I</p> <p>7 don't know what you call them now. I think they're</p> <p>8 emergency responders. These are the folks that are</p> <p>9 out there in the big trucks that are responding to</p> <p>10 incidents.</p> <p>11 They brought out the biggest wrecker</p> <p>12 I have ever seen in my life, and they worked side</p> <p>13 by side with our team out there in Utah during the</p> <p>14 duration of the Olympics.</p> <p>15 And as a result of their presence</p> <p>16 there, and their practices that they shared with</p> <p>17 us, we significantly enhanced our program in Utah</p> <p>18 as a result of that interaction.</p> <p>19 And the second one was I was</p> <p>20 flying -- I flew into O'Hare, was going to Chicago,</p> <p>21 going along the freeway there in a cab, and I</p> <p>22 noticed your express lanes. And I thought, wow,</p> <p>23 that's pretty cool.</p> <p>24 While I was in the cab, I called my</p>	<p style="text-align: right;">Page 25</p> <p>1 right? You know, we get out on the highway, oh, my</p> <p>2 goodness, it's orange barrel country; I love this.</p> <p>3 Well, actually, I kind of do. I</p> <p>4 just love the progress that it represents.</p> <p>5 But nobody really likes to be caught</p> <p>6 in congestion as a result of our work.</p> <p>7 So there's two contracting methods</p> <p>8 that I would like to talk to you about that help.</p> <p>9 A plus B contracting. I don't know</p> <p>10 if you have the authority to do this. Perhaps you</p> <p>11 do. It's worth investigating, though.</p> <p>12 A plus B contracting, essentially</p> <p>13 the contractor bids, A, the price, and, B, the</p> <p>14 time. You take the time factor and you times it by</p> <p>15 the user costs.</p> <p>16 So every time we inconvenience</p> <p>17 people with one of our construction projects, there</p> <p>18 are user costs. Let's just face it up right now.</p> <p>19 When we delay people, we delay the economy; there</p> <p>20 is a cost.</p> <p>21 And you have brilliant engineers</p> <p>22 here that can calculate what those costs are. So</p> <p>23 you take the user cost, you times it by the number</p> <p>24 of days that they are going to be working, and you</p>

<p style="text-align: right;">Page 26</p> <p>1 add those two numbers together.</p> <p>2 And so now you're selecting a</p> <p>3 contract based on low bid plus time. And I don't</p> <p>4 know if you have the authority to do that, but that</p> <p>5 is a very powerful tool.</p> <p>6 So if you've got a contractor that's</p> <p>7 clever enough to figure out a way to build this</p> <p>8 thing faster, more efficiently, they can do it.</p> <p>9 And they can win the contract on low bid because</p> <p>10 they have less impact. A plus B contracting,</p> <p>11 it's --</p> <p>12 CHAIRMAN SCHILLERSTROM: So that's a theory</p> <p>13 where obviously if they -- if contractor -- you</p> <p>14 know, Contractor X, on a pure dollars and cents</p> <p>15 basis, came in higher than Contractor Y, they could</p> <p>16 still win it if they could get it done quicker and</p> <p>17 with less negative impact on our users.</p> <p>18 MR. NJORD: Exactly. It's a holistic way of</p> <p>19 looking at our project delivery.</p> <p>20 So, you know, if it's just low bid,</p> <p>21 we could punish people for a long, long time to get</p> <p>22 that low bid value, but it costs the economy, it</p> <p>23 costs people.</p> <p>24 CHAIRMAN SCHILLERSTROM: It's especially</p>	<p style="text-align: right;">Page 28</p> <p>1 around the country for a long, long time,</p> <p>2 incentive/disincentive.</p> <p>3 And, once again, that is based upon</p> <p>4 user costs. So you indicate what the user costs</p> <p>5 are, and if the contractor ends up taking 20 extra</p> <p>6 days, there's a disincentive that the contractor</p> <p>7 needs to pay as a result of impacting people's</p> <p>8 lives for an additional 20 days.</p> <p>9 The opposite is also true; if they</p> <p>10 finish 20 days early, they get a bonus.</p> <p>11 So I provided you with some thoughts</p> <p>12 here, members of the Board. And I don't want to</p> <p>13 belabor the issue at all, but I'm here and</p> <p>14 available for any questions that you might have or</p> <p>15 any thoughts.</p> <p>16 CHAIRMAN SCHILLERSTROM: Does any member of</p> <p>17 the Committee or, for that matter, staff, have any</p> <p>18 questions?</p> <p>19 I kind of interrupted as you went</p> <p>20 along, and for that I apologize. But I appreciate</p> <p>21 you answering my questions.</p> <p>22 So does anybody have any questions?</p> <p>23 DIRECTOR STEPHENS: Not me.</p> <p>24 CHAIRMAN SCHILLERSTROM: Questions?</p>
<p style="text-align: right;">Page 27</p> <p>1 important to us because we're -- our customers are</p> <p>2 our sole source of revenue, and obviously during a</p> <p>3 period of construction, that has a negative impact</p> <p>4 on our customers and fewer may use the road. So</p> <p>5 that might be very helpful to us.</p> <p>6 Do you do that in Utah? Do you have</p> <p>7 that option in Utah?</p> <p>8 MR. NJORD: Every project that was not</p> <p>9 design-build, CM/GC, CMR, every one of the projects</p> <p>10 that were not one of those, was A plus B.</p> <p>11 CHAIRMAN SCHILLERSTROM: And you have enabled</p> <p>12 legislation that we could look at also for that.</p> <p>13 MR. NJORD: Absolutely.</p> <p>14 CHAIRMAN SCHILLERSTROM: Very good.</p> <p>15 MR. NJORD: So the last one that I would</p> <p>16 mention -- and I don't know if you have this</p> <p>17 ability or this practice today, I couldn't discover</p> <p>18 it -- is incentive/disincentive.</p> <p>19 It's very similar to A plus B, but</p> <p>20 essentially what you do is you establish within the</p> <p>21 contract an incentive to complete early and a</p> <p>22 disincentive if they complete late. So it's a</p> <p>23 different way of approaching the A plus B. It's</p> <p>24 a little bit older school, but it's been practiced</p>	<p style="text-align: right;">Page 29</p> <p>1 DIRECTOR BANKS: His suggestions are</p> <p>2 excellent.</p> <p>3 CHAIRMAN SCHILLERSTROM: Yeah, absolutely.</p> <p>4 And how about staff, any questions</p> <p>5 out of staff for Mr. Njord?</p> <p>6 (No response.)</p> <p>7 Well, you've certainly given us food</p> <p>8 for thought, and as we turn this over to our staff,</p> <p>9 I hope that they can reach out to you if they</p> <p>10 develop questions if they go through this.</p> <p>11 But this has been very helpful, and</p> <p>12 you've given us some really good ideas. I mean,</p> <p>13 for us, we're obviously in the middle of a major</p> <p>14 capital program.</p> <p>15 And, as I said, our only revenue</p> <p>16 comes from our users, and we want to inconvenience</p> <p>17 them as little as possible, one, because we want to</p> <p>18 inconvenience them as little as possible, but we</p> <p>19 want to make sure they continue to use our facility</p> <p>20 and contribute to our operations. And we think</p> <p>21 it's beneficial for them.</p> <p>22 So this is all very helpful to us,</p> <p>23 and I thank you.</p> <p>24 MR. NJORD: Could I just have a concluding</p>

<p style="text-align: right;">Page 30</p> <p>1 remark here, Mr. Chairman?</p> <p>2 CHAIRMAN SCHILLERSTROM: You may.</p> <p>3 MR. NJORD: I'm not a politician. I'm -- I</p> <p>4 was an appointed policymaker for a number of years.</p> <p>5 And I remember lamenting one time to my, one of my</p> <p>6 governors, who happens to now be the Ambassador to</p> <p>7 Russia.</p> <p>8 So I'm telling my governor friend,</p> <p>9 This is awful. I'm getting accused of all sorts of</p> <p>10 crazy things as a public official.</p> <p>11 And he says, Well, the moment you</p> <p>12 started having public hearings, you became a</p> <p>13 politician.</p> <p>14 And so I don't know if you guys</p> <p>15 signed up to be politicians, but you are de facto</p> <p>16 making decisions on behalf of the public. And I</p> <p>17 applaud you for doing it. It's difficult work.</p> <p>18 And it's not easy to be criticized, especially by</p> <p>19 those that buy ink by the barrel. That's a</p> <p>20 difficult process to be looked at under those eyes.</p> <p>21 And I feel your pain. I've felt that pain myself.</p> <p>22 But, you know, you don't make war</p> <p>23 with them, you just -- you do your job, right? You</p> <p>24 do your job, you evaluate your process.</p>	<p style="text-align: right;">Page 32</p> <p>1 today.</p> <p>2 CHAIRMAN SCHILLERSTROM: Oh, all right.</p> <p>3 SECRETARY REGNERY: And you have a copy of</p> <p>4 that at your place.</p> <p>5 CHAIRMAN SCHILLERSTROM: We do. Everyone has</p> <p>6 a copy of that. And if they want it, it's</p> <p>7 available to them?</p> <p>8 SECRETARY REGNERY: They do.</p> <p>9 (The following from Rich Raczynski:)</p> <p>10 To: Kevin Artl</p> <p>11 COO, Illinois Toll Highway Authority</p> <p>12 From: Rich Raczynski</p> <p>13 Former Chief Engineer, NJTA</p> <p>14 Subject: Illinois Tollway QBS Process Review.</p> <p>15 "Having reviewed the Illinois</p> <p>16 Tollway QBS procedure and related documentation and</p> <p>17 the Chief Engineering Officer presentation to the</p> <p>18 ad-hoc committee, I conclude that the Illinois</p> <p>19 Tollway is following proper QBS procedures,</p> <p>20 following industry standard. Regardless of the</p> <p>21 potential conflict, if the process is correctly</p> <p>22 followed without undue influence, the appropriate</p> <p>23 outcome will result. A strong process helps ensure</p> <p>24 consistency in output.</p>
<p style="text-align: right;">Page 31</p> <p>1 I think there's tremendous value,</p> <p>2 and I applaud you for looking at your process. You</p> <p>3 know, you said we don't reinvent the wheel. I'll</p> <p>4 tell you what; if you don't fine tune the wheel, it</p> <p>5 will become obsolete. You have to fine tune it</p> <p>6 continuously.</p> <p>7 So this process is exactly what you</p> <p>8 need. Let's look at how we do things, see if</p> <p>9 there's a better way to do it.</p> <p>10 CHAIRMAN SCHILLERSTROM: Well, thank you.</p> <p>11 You've given us a lot of really good ideas today,</p> <p>12 and we're going to follow up on them. And thank</p> <p>13 you for coming out here and, you know, we look</p> <p>14 forward to staying in touch with you.</p> <p>15 MR. NJORD: My pleasure.</p> <p>16 CHAIRMAN SCHILLERSTROM: Thank you very much,</p> <p>17 Mr. Njord.</p> <p>18 So next we are honored to have</p> <p>19 Mr. Rich Raczynski, who is the former Chief</p> <p>20 Engineer with the New Jersey Turnpike. He is also</p> <p>21 going to talk a little bit about QBS and --</p> <p>22 SECRETARY REGNERY: Mr. Chairman, I'm sorry.</p> <p>23 He has just submitted testimony that he would like</p> <p>24 included in the record. He's not here to testify</p>	<p style="text-align: right;">Page 33</p> <p>1 "Suggestions for Consideration</p> <p>2 "The scoring system as presented is fairly</p> <p>3 complex. And while I understand the intent of the</p> <p>4 tier system and agree it provides multiple levels</p> <p>5 of review and gathering of input, it could be</p> <p>6 simplified and slightly more transparent if that</p> <p>7 is a goal. Within that context, a few small</p> <p>8 modifications to possibly consider.</p> <p>9 "Each evaluation criteria can be assigned a</p> <p>10 weight as well as a point value to ensure a fair</p> <p>11 review with an emphasis on the most significant</p> <p>12 criteria.</p> <p>13 "Coming out of tier 1 review, the Project</p> <p>14 Manager could take the top three highest scores and</p> <p>15 present the recommendation to the Chief Engineering</p> <p>16 Officer.</p> <p>17 "The Chief Engineering Officer would have the</p> <p>18 right to ask questions of the committee and then</p> <p>19 present the final recommendation to the Executive</p> <p>20 Director.</p> <p>21 "The final selection committee should consider</p> <p>22 ranking/scoring the considered proposals as opposed</p> <p>23 to a simple vote.</p> <p>24 "Board members should receive the</p>

<p style="text-align: right;">Page 34</p> <p>1 recommendation of the committees as opposed to 2 being involved in selection in any way. 3 "A software program to analyze the value of 4 the work each consultant under consideration is 5 currently obligated for with the Tollway could also 6 be helpful in evaluating the selection. 7 "The press will never understand the 8 consultant selection process. They will continue 9 to focus on low bids. Perhaps a short presentation 10 at a future public meeting that explains the 11 process is warranted for educational purposes." 12 CHAIRMAN SCHILLERSTROM: Next we're going to 13 move on to hiring. 14 And Mr. James from Illuminative 15 Strategies is here to speak with us, I think. 16 And I know that Cassaundra, our 17 auditor, Cassaundra Rouse, is also going to speak. 18 Do you guys want to do this 19 together? 20 MS. ROUSE: Yes. So, actually, Kent will go 21 first, and then I'll follow. 22 CHAIRMAN SCHILLERSTROM: That is fine. 23 As I said, Cassaundra Rouse is our 24 auditor, and is obviously -- takes a look at all</p>	<p style="text-align: right;">Page 36</p> <p>1 Our first step was to create an 2 understanding of what we call the current state 3 hiring process. And to accomplish this, we used an 4 in-depth desk review, we used interviews of all the 5 stakeholders at the Tollway here, and we actually 6 used observation, seeing what was actually done. 7 The outcomes of that are shown on 8 the screen where -- and some of the risks that we 9 identified were transparency risks. We -- there 10 was a lot of specificity risk in the definition of 11 roles, duties, and success factors related to 12 positions. 13 The hiring time frame on average 14 across these positions was over 10 months. 15 There was manual ranking and sorting 16 of hundreds and hundreds of applicants. 17 That manual process included -- or 18 created human bias risks in the sorting. 19 We observed low quality interviews. 20 The Tollway was underutilizing an 21 IT investment they made in an applicant tracking 22 and selection system. 23 And the process was incredibly paper 24 intensive. There were many examples of where a</p>
<p style="text-align: right;">Page 35</p> <p>1 the things we do, and gives us good ideas from time 2 to time. 3 So we're very happy that you're here 4 to help. 5 And obviously, Mr. James, thank you 6 very much too. 7 So I will turn the floor over to you 8 two. And the floor is yours. 9 MR. JAMES: Okay. Good morning, and thank 10 you for your time today. 11 My name is Kent James, and I'm the 12 Executive Director of Illuminative Strategies. 13 We're a company that specializes in business 14 process optimization. And we're also a minority 15 certified BEP and BBE firm. 16 So what I'll be talking about today 17 is a process that we -- and a project that we began 18 here at the Tollway and have implemented several 19 weeks ago specifically related to optimizing the 20 Tollway's Rutan-covered hiring processes. And 21 that's what we'll be going through in this dec that 22 I'll present, some of the experiences and what we 23 saw. 24 So if we can change the slide.</p>	<p style="text-align: right;">Page 37</p> <p>1 single hiring event had tens of thousands of pieces 2 of paper related to it. 3 So those were the observations 4 that we documented as part of our current state 5 assessment. 6 CHAIRMAN SCHILLERSTROM: Looks like we 7 weren't doing a very good job. 8 MR. JAMES: There were opportunities to 9 improve. 10 So what you see is -- 11 DIRECTOR BANKS: That looks like when they 12 posted the grades in law school. 13 (Laughter.) 14 CHAIRMAN SCHILLERSTROM: It does. 15 MR. JAMES: So the process was so complex, 16 which the picture that you see at the top of this 17 slide is actually what we call a swim lane diagram. 18 And it doesn't show up well here, but we do have 19 that, and we'll give it to you. It was over 35 20 feet long, your process, and there were so many 21 pieces of paper to it, the only way we could even 22 get our heads around it was to actually tape the 23 paper up on the wall, the document, and then we 24 used just ribbon to associate it to a step in the</p>

<p style="text-align: right;">Page 38</p> <p>1 process.</p> <p>2 So, again, it created what up to</p> <p>3 that point was just kind of like a blob from a</p> <p>4 process perspective. And this began the process of</p> <p>5 creating understanding.</p> <p>6 And once you start there, you can go</p> <p>7 down a path of improving a process. So this was at</p> <p>8 the starting point.</p> <p>9 And if we go to the next slide.</p> <p>10 So after we developed a current</p> <p>11 state understanding, the second step in our process</p> <p>12 was define the core tenets we were going to use in</p> <p>13 the development of a solution.</p> <p>14 Those tenets included stakeholder</p> <p>15 involvement, transparency, quality, and efficiency.</p> <p>16 And the circles around the center there show the</p> <p>17 stakeholders that were involved in our creation of</p> <p>18 a new process.</p> <p>19 They included the admin group.</p> <p>20 That's where your Human Resource Department</p> <p>21 activities lie. Internal Audit, Legal, EEO/ADA,</p> <p>22 Hiring Managers, and Applicants themselves.</p> <p>23 So we involved as many people as we</p> <p>24 could in really not only defining the current state,</p>	<p style="text-align: right;">Page 40</p> <p>1 included it in an SOP.</p> <p>2 So what we did is we started at</p> <p>3 the beginning of the process, deconstructed it,</p> <p>4 improved one piece at a time, got buy-in from</p> <p>5 everybody that would be using it or would be</p> <p>6 impacted by it, and then we pulled that up to an</p> <p>7 SOP.</p> <p>8 And we did that from beginning to</p> <p>9 end through the hiring process, and the end result</p> <p>10 was an optimized hiring process that you had</p> <p>11 stakeholder buy-in and involvement, because they</p> <p>12 were involved in the creation of it, and then also</p> <p>13 an SOP that defines what is the hiring process as</p> <p>14 we go forward.</p> <p>15 And then, you know, again it's</p> <p>16 implemented and the agency can use that going</p> <p>17 forward.</p> <p>18 So that's a long-winded way of</p> <p>19 showing the process that we actually went through.</p> <p>20 If you go to the next slide, this</p> <p>21 is -- this slide shows an example -- again, these</p> <p>22 numbers here are just for example -- of how we</p> <p>23 achieved one of the core objectives, which is</p> <p>24 making sure that the highest qualified candidate</p>
<p style="text-align: right;">Page 39</p> <p>1 but developing the future states.</p> <p>2 So if we go to the next page.</p> <p>3 So our approach to optimizing the</p> <p>4 process was a term that we call progressive</p> <p>5 elaboration and implementation.</p> <p>6 And what we do is we start by</p> <p>7 deconstructing that current state and do the core</p> <p>8 elements of hiring. And those are actually shown</p> <p>9 in that bottom row.</p> <p>10 It's define the position</p> <p>11 characteristics, define test requirements, define</p> <p>12 interview questions, et cetera.</p> <p>13 So we first deconstruct the hiring</p> <p>14 process into the smaller elements, then we rebuild</p> <p>15 each one using the lean methodology.</p> <p>16 So what we do is we take the first</p> <p>17 one, if it's defining the position characteristics,</p> <p>18 or JD, we restructure that, rewrite it, and then we</p> <p>19 share that and interact with the stakeholders, and</p> <p>20 then go back and forth until we gain approval from</p> <p>21 all of those stakeholders that I mentioned in the</p> <p>22 prior slide.</p> <p>23 Once we achieve that agreement on</p> <p>24 that improved process, we then took it up and</p>	<p style="text-align: right;">Page 41</p> <p>1 gets hired for a position.</p> <p>2 So, for example, if there were</p> <p>3 100 applicants, we created an incremental filtering</p> <p>4 process that was blind, nonbiased, using completely</p> <p>5 automated tools to make sure that the applicants,</p> <p>6 as we go through this filtering process, are highly</p> <p>7 aligned to these -- to the specific position</p> <p>8 description. Okay?</p> <p>9 And then another concept that we</p> <p>10 ensured throughout the filtering process was to</p> <p>11 make sure that the agency had very transparent</p> <p>12 visibility into the impacts of diversity through</p> <p>13 the process.</p> <p>14 CHAIRMAN SCHILLERSTROM: What does that mean?</p> <p>15 MR. JAMES: So, for example, if -- if I have</p> <p>16 100 people that applied for a position --</p> <p>17 CHAIRMAN SCHILLERSTROM: Yes.</p> <p>18 MR. JAMES: -- what's our diverse makeup in</p> <p>19 that applicant pool?</p> <p>20 Then we do the first level of</p> <p>21 filtering, which is based on required. So you</p> <p>22 have to have a CDL, you have to have driven big</p> <p>23 equipment before, yes or no. It's a hard filter on</p> <p>24 that; that's required.</p>

<p style="text-align: right;">Page 42</p> <p>1 Then we can look at, well, what's</p> <p>2 the applicant pool diversity makeup after that</p> <p>3 filter?</p> <p>4 Then we can go to the next one:</p> <p>5 Well, the desired. We really would prefer someone</p> <p>6 to have more than five years' experience on big</p> <p>7 equipment. We want them to have experience in all</p> <p>8 weather conditions. It's a desired, it's not a</p> <p>9 required, but if you have those, we might give you</p> <p>10 more points as an applicant.</p> <p>11 We can look very transparently at</p> <p>12 what did those -- what did that diverse desired</p> <p>13 KSA filtering do to the diversity of the applicant</p> <p>14 pool?</p> <p>15 So, again, what it gives you the</p> <p>16 opportunity to do is reassess any step for adverse</p> <p>17 impact. So all the way through, you can see</p> <p>18 exactly where you're having and what your candidate</p> <p>19 pool is made up of.</p> <p>20 If we go to the next slide.</p> <p>21 Again we're going to talk a little</p> <p>22 bit about what we achieved. And on this slide, it</p> <p>23 shows the impact of what time does to candidate</p> <p>24 quality through this applicant quality time curve.</p>	<p style="text-align: right;">Page 44</p> <p>1 CHAIRMAN SCHILLERSTROM: So you feel pretty</p> <p>2 confident that our process now, if we advertise for</p> <p>3 a position, that we can fill it within 30 to 45 days.</p> <p>4 MR. JAMES: Yes. And that was over an</p> <p>5 80 percent reduction in the hiring cycle time. So</p> <p>6 it's quite an accomplishment.</p> <p>7 There is no other agency in this</p> <p>8 state that's even close to that. On average</p> <p>9 they're in the 10-plus month.</p> <p>10 CHAIRMAN SCHILLERSTROM: How about in other</p> <p>11 public agencies, is that a good number, 30, 45 days?</p> <p>12 MR. JAMES: Oh, absolutely. That's a best</p> <p>13 practice.</p> <p>14 CHAIRMAN SCHILLERSTROM: Not just necessarily</p> <p>15 Illinois.</p> <p>16 MR. JAMES: No, nationwide. So we do work on</p> <p>17 hiring nationwide, and that would be in probably</p> <p>18 the, for sure the top quartile.</p> <p>19 CHAIRMAN SCHILLERSTROM: And are we still</p> <p>20 continuing to look for ways to refine that and --</p> <p>21 MR. JAMES: Absolutely.</p> <p>22 So one of the things -- you know,</p> <p>23 as we went through this process, one of the --</p> <p>24 one of the -- again, we use lean methodology and</p>
<p style="text-align: right;">Page 43</p> <p>1 And you have a quality curve that's</p> <p>2 shown in the center.</p> <p>3 On the left-hand side, that was our</p> <p>4 starting point in the project. What you see is the</p> <p>5 longer it takes to bring somebody in or make a</p> <p>6 hiring decision, you know, the highest qualified</p> <p>7 candidates are probably finding jobs elsewhere, and</p> <p>8 then you're going down 10-plus months, the people</p> <p>9 that are left in the pool, you might be going down</p> <p>10 from your first, your highest desired candidate,</p> <p>11 you might be going down to number 20 or 30 on the</p> <p>12 list to find somebody that still is interested in</p> <p>13 taking a job.</p> <p>14 So if we go over to the right-hand</p> <p>15 side, we show the improved state. So what we see,</p> <p>16 we went from a 10-plus month average to hire, to a</p> <p>17 30- to 45-day. That's where you are today.</p> <p>18 And we achieved that through</p> <p>19 numerous facilitated pilots that we led. And I</p> <p>20 think there were probably over 50 positions hired</p> <p>21 at that rate.</p> <p>22 So it's, you know, it represent- --</p> <p>23 a strong -- strongly representative sample of what</p> <p>24 the hiring time is in the -- right now.</p>	<p style="text-align: right;">Page 45</p> <p>1 continuous improvement.</p> <p>2 So that concept of process</p> <p>3 ownership, continuous improvement was preached</p> <p>4 continuously to the team here. And I'm feeling</p> <p>5 very strongly that everyone has embraced that and</p> <p>6 is willing to look at the process.</p> <p>7 And not just -- you know, five years</p> <p>8 from now, you know, I would be really disappointed</p> <p>9 if I came back and you were doing the same thing.</p> <p>10 What I would hope is that there's</p> <p>11 been lots of changes constantly happening to your</p> <p>12 process. Because all processes can be continuously</p> <p>13 tuned.</p> <p>14 DIRECTOR BANKS: Don't you lose a lot of</p> <p>15 applicants in ten months?</p> <p>16 MR. JAMES: What's that?</p> <p>17 DIRECTOR BANKS: Wouldn't you lose a lot of</p> <p>18 applicants during ten months?</p> <p>19 MR. JAMES: Absolutely. So you'd call a lot</p> <p>20 of people and they say, Got a job already. Not</p> <p>21 interested anymore.</p> <p>22 That's where I made the statement,</p> <p>23 what happens is you go out in time, you might have</p> <p>24 had 100 applicants apply, you might have to go down</p>

<p style="text-align: right;">Page 46</p> <p>1 to 50 or 60 on the list to find somebody that is 2 still looking for a job. And, again, and that 3 might be somebody that was out of work for ten 4 months. Is that really what you're looking for? 5 CHAIRMAN SCHILLERSTROM: Yeah. So the bottom 6 line is our -- the people that we are now hiring 7 should be much more skilled -- 8 MR. JAMES: Top tier. 9 CHAIRMAN SCHILLERSTROM: -- than the people 10 we were hiring before. 11 MR. JAMES: Yeah. And, again, the process of 12 tuning the automated filtering, you know, comes 13 through experimentation. 14 What I asked the team to do is every 15 time you make a hire, pause, look at the impact of 16 your interview questions, look at the impact of the 17 application questions, and look at the candidates 18 that you got. 19 If you didn't get what you were 20 looking for, let's change it. Continuous 21 improvement is okay. 22 And, again, that's not just an 23 HR function. It's really a function of the 24 participation between the hiring departments and</p>	<p style="text-align: right;">Page 48</p> <p>1 selection, it was -- there was -- that's where all 2 that bias and personal interpretation came in, 3 versus tell me exactly what you're looking for, 4 tell me what -- tell me your best, you know, 5 performing staff, what do they do that makes them 6 the best? And roll those characteristics, roll 7 those capabilities into your position descriptions. 8 And, again, that was a lot of 9 discussion we had with the facilitated pilots, with 10 the hiring managers. 11 CHAIRMAN SCHILLERSTROM: I would presume that 12 that would be better for our employees because if 13 they specifically know what their job is, I presume 14 that they can perform it -- 15 MR. JAMES: Absolutely. 16 CHAIRMAN SCHILLERSTROM: -- better. 17 MR. JAMES: Yeah. So it affects -- it 18 affects the employee's under- -- or the candidate's 19 understanding of what they're going to be doing. 20 It affects how I select people, it affects 21 performance management downstream. 22 So again, you know, we might have a 23 lot of desired things, and maybe you didn't score 24 real high in the desired, but during your</p>
<p style="text-align: right;">Page 47</p> <p>1 the HR group. And it's a collaboration that's 2 really going to, you know, continue to improve this 3 process as you go forward. 4 On the next slide, this shows some 5 additional accomplishments of this project. Again, 6 through the development of that SOP and through 7 the -- through the system, the transparency that 8 you have at every single step of the process is -- 9 is just sitting right there. You can analyze it, 10 you can look at it, your hiring managers can look 11 at it, anybody else can look at it; it's a very 12 transparent process. 13 Again, we created a non-biased, 14 objective, documented, and auditable hiring process 15 end to end. The SOP is very specific, it's very 16 clear, it's very auditable. 17 The third one, increased job 18 description specificity. 19 Again, a lot of description 20 positions when we started had -- you know, the only 21 requirement was you had to have a high school 22 diploma. And that wasn't even in all of them, but 23 they were very loosely written. 24 So when it comes to doing candidate</p>	<p style="text-align: right;">Page 49</p> <p>1 performance period, that's something I can talk to 2 you about. And it already very clearly aligns to 3 that position. 4 So, again, there -- you know, 5 there's concepts here. Again, when we talk about 6 hiring, it's not just getting a body in the door. 7 You know, hiring is getting the best body, 8 retention, performance management, and 9 organizational performance broadly downstream. 10 CHAIRMAN SCHILLERSTROM: I presume it's 11 probably too early to be able to determine if we're 12 going to have better retention, but I presume, just 13 from studying these types of things, that more 14 likely than not we will be able to keep our people 15 longer, which will make for a better running 16 organization. 17 MR. JAMES: Absolutely. 18 So some of the other items that we 19 had here, so increased job description specificity, 20 which again creates clarity for those candidates; 21 expanded access to talented and diverse pools. 22 We tried a couple experiments on 23 doing outreach, and we doubled the size of some of 24 the pools.</p>

<p style="text-align: right;">Page 50</p> <p>1 And if you're doing all of this on 2 paper, everybody runs away from that concept. So 3 if I was to say that that to CMS, they would go: 4 The last thing we want is to double our candidate 5 pool because we're going to have to print all of 6 that out, we're going to have to manually sort it 7 to try to pick the applicant. 8 So under our process that we 9 developed with the Tollway, you want the largest 10 candidate pools because that's going to increase 11 your probability of getting the best aligned 12 candidates. And then, as long as you have 13 automated tools that identify those top candidates 14 quantitatively, having lots of candidates is a good 15 thing. 16 So the next one on there is 17 reduction in Tollway resource effort. So again, 18 you know, the beauty is you can increase your 19 candidate pool size, increase the likelihood of 20 getting great candidates; but because so much of 21 this process is automated, there is actually less 22 burden on the HR staff and the hiring manager staff 23 as an outcome of this process. 24 CHAIRMAN SCHILLERSTROM: Which I presume also</p>	<p style="text-align: right;">Page 52</p> <p>1 want to fill a position is they sit down and have a 2 kickoff meeting. 3 In that kickoff meeting, would 4 they have a level setting of: This is what our 5 estimated timeline is. We can actually sit down 6 with the hiring manager on day one and say, you 7 know, on October 5th, that week, that's when we're 8 going to start interviewing. It's that specific. 9 So we can look at your calendars, we 10 can talk about exactly what's going to happen, how 11 long things are going to happen, what we're going 12 to do to you from a responsiveness perspective, and 13 what we need from you to help us help you. 14 So those types of, again, just level 15 setting and, you know, and laying out the dates, 16 laying out the steps very clearly and transparently 17 on day one is a fundamental shift in the hiring 18 process. 19 And that was the end of mine. Can I 20 answer any questions or ... 21 CHAIRMAN SCHILLERSTROM: Go ahead, Jim, did 22 you have something? 23 DIRECTOR BANKS: No. 24 CHAIRMAN SCHILLERSTROM: Oh, okay.</p>
<p style="text-align: right;">Page 51</p> <p>1 makes it more objective and less subjective. 2 MR. JAMES: Absolutely. 3 CHAIRMAN SCHILLERSTROM: Which is the goal. 4 MR. JAMES: Absolutely. 5 Again, improved hiring quality, 6 number 7. 7 Number 8, in-depth informed 8 interviews. 9 So, again, we did a lot of 10 restructuring of the interview process to make it 11 less robotic and really get down to, Are you a good 12 fit? Do you really have what we need? 13 And, again, all of these processes 14 take into account current interpretations of Rutan. 15 We did tests all along the way to make sure there 16 are no problems with that. So I just want to state 17 that as well. 18 And then, number 9, enhanced 19 standard operating procedures. Again, those are 20 now well documented and rolled out. 21 And, 10, developed service level 22 agreements. 23 So one of the very first things that 24 happens when a hiring manager notifies HR that they</p>	<p style="text-align: right;">Page 53</p> <p>1 I take it that our staff is happy 2 with these changes because it makes, one, their job 3 easier, and it's quicker to bring in employees. 4 I know that we have had a very 5 difficult time filling spots. And I take it we're 6 doing a much better job of filling spots now in an 7 objective manner. 8 MR. JAMES: So, again, you know, we led a 9 number of facilitated pilots. You know how that 10 ramps up and gets -- you know, again, there is 11 still some learning for other hiring managers that 12 weren't involved in it. So it's going to take a 13 little bit of time to trickle through the 14 organization. 15 But we think the process is defined 16 well enough, and, again, our training we hope was 17 comprehensive enough that, you know, the agency 18 will do that quickly. 19 DIRECTOR BANKS: Is there a typical number of 20 applicants per opening here? 21 MR. JAMES: It really varies by position. 22 Again, we -- I mean, it could be -- I mean, you 23 have some positions that you have 800 applicants. 24 DIRECTOR BANKS: Oh, wow.</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. JAMES: So, again, in that type of 2 situation, the old process, you printed out 3 800 applications and resumes, and manually laid 4 them out on a table and tried to sort them through 5 visual reading. I mean, that's just an inherently 6 biased process. 7 That's not where you are today. The 8 new process literally makes -- the sorting and 9 ranking of applicants is completely blind. Nobody 10 knows their race, their sex, anything about them 11 except what they have as qualifications. 12 CHAIRMAN SCHILLERSTROM: So this is a much 13 better opportunity to comply with the law. 14 MR. JAMES: A hundred percent. 15 DIRECTOR GORMAN: Thanks so much. I 16 appreciate your presentation, Kent. And defining 17 the process, it really makes sense. 18 When I first came in, you know, and 19 I was going through the tour of the building, you 20 know, and speaking with, you know, a chief or two, 21 there was an inquiry, you know, about -- mentioning 22 the executive secretary just, you know, left, 23 either maternity or another position and whatnot. 24 And they had had this void for a long time.</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. JAMES: Thank you. 2 CHAIRMAN SCHILLERSTROM: Cassandra. 3 MS. ROUSE: Yes. Thank you. And thanks, 4 Kent, for reviewing the successes under the Rutan- 5 covered position. 6 So, as I mentioned, my name is 7 Cassandra Rouse, and I'm the Chief of Internal 8 Audit. 9 And the presentation today, we'll 10 review the exempt hiring process -- or practice 11 here at the Tollway. And what I'll cover is the 12 current state of the exempt hiring, we'll talk 13 about some suggested recommendations, and then 14 we'll end with the continuous monitoring from the 15 Internal Audit Department of the exempt hiring 16 process. 17 I will mention that Internal Audit, 18 in addition to, of course, performing audits of 19 activities in -- over hiring, and in the 20 Administration Department, we have most recently 21 collaborated with Administration to look at the 22 exempt hiring process. And we've also worked with 23 Kent's team with the Rutan-covered process to 24 assist with identifying opportunities for</p>
<p style="text-align: right;">Page 55</p> <p>1 And I'm like, Well, why don't you 2 bring somebody in? And they said, Well, it takes 3 ten, eleven months to get anybody into this spot. 4 But I figured, as an executive 5 secretary, would that be like a routine position? 6 MR. JAMES: Usually it's exempt because of 7 the confidentiality of what they might be dealing 8 with. But -- 9 DIRECTOR GORMAN: So that change would be 10 incorporated or, you know, that's something that 11 obviously -- 12 MR. JAMES: That position, again, ideally 13 would fall into the 30- to 45-day range now. 14 DIRECTOR GORMAN: Okay. So now it would be a 15 30- to 45-day range where they could start bringing 16 on people to obviously assist them to give them the 17 tools to succeed. 18 So I'm sure that that's going to be 19 identified Rutan and exempt positions so they can 20 move forward and start putting those people in. 21 CHAIRMAN SCHILLERSTROM: Any other questions 22 for Mr. James? 23 (No response.) 24 Thank you very much.</p>	<p style="text-align: right;">Page 57</p> <p>1 improvement. 2 So you'll see that we've come up 3 with recommendations to assist with the 4 transparency in the hiring process. 5 So if we turn to the first page 6 here, I will mention that the current SOP over 7 hiring indicates that the objectives of the Tollway 8 for filling open positions are to base their 9 selection decisions on the candidate's ability to 10 perform the job, to provide equal opportunity for 11 all qualified candidates, to provide an objective 12 process for evaluating the candidates, provide 13 hiring -- prohibit hiring decisions on party 14 affiliations or support unless otherwise consistent 15 with the law, and to provide the Tollway with 16 maximum lawful discretion in making selections 17 decisions. And, finally, to adequately document 18 all employment decisions. 19 And so that is the objective that 20 sits on top of the SOP, the standard operating 21 procedure, for all hiring here at the Tollway. 22 Now, as it relates to hiring of 23 exempt employees, the current state I'll talk about 24 later, but before I do that, I want to, just for</p>

<p style="text-align: right;">Page 58</p> <p>1 clarification, make sure that everyone understands 2 the difference between Rutan and Rutan-exempt. 3 So Rutan refers to the process 4 that's been put in place by the State of Illinois 5 in order to comply with the principles that were 6 set forth in the United States Supreme Court 7 decision of Rutan versus the Republican Party of 8 Illinois. And there were subsequent directives 9 from there that were in administrative orders. 10 So positions which are exempt 11 from Rutan really allow for greater latitude in 12 employment decisions to hire qualified personnel, 13 while positions that are Rutan-exempt, they must 14 follow established -- I'm sorry -- Rutan-covered, 15 must follow established personnel practices to 16 assure compliance with provisions of the court case. 17 And that's primarily what Kent 18 covered and what his team kind of addressed to 19 ensure that for Rutan-covered positions, that we 20 are truly compliant with, you know, the applicable 21 laws over that hiring process. 22 Now, if -- for Rutan-exempt 23 positions, there are three general areas that 24 really describe a position as being exempt. And</p>	<p style="text-align: right;">Page 60</p> <p>1 there's a job advertisement, the receipt of 2 resumes, selection of the applicants, interviewing, 3 and then the final approval stage, which includes 4 an appropriate signoff by the Executive Director, 5 the recommendation memo to hire from the hiring 6 department. 7 Now, I'll emphasize that while 8 this is a general overview, we have found from the 9 Internal Audit perspectives that the Tollway 10 doesn't always consistently, you know, follow what 11 we have laid out before you. 12 So on the next slide I'm going to 13 talk about the key areas in the hiring process 14 where the agency has not been consistent. 15 The first area would be in the 16 exempt recruiting process. 17 So what you have laid out on this 18 slide is our current state for actually posting or 19 at least advertising an opening for an exempt 20 position. 21 So now typically how this is handled 22 is after consideration or discussion after, say, 23 with the Chief of Administration and the Department 24 Chief and/or Designated Hiring Manager that there</p>
<p style="text-align: right;">Page 59</p> <p>1 those exempt positions must contain duties that 2 involve policy issues, confidentiality, or 3 spokesperson responsibilities. 4 Once a determination is made that 5 the job description falls within those three 6 general areas or one of the three general areas, 7 then that position would be deemed Rutan-exempt. 8 So here at the Tollway we have, as 9 you see on the screen, 1,356 Tollway employees that 10 are covered by Rutan, and then there are 83 Tollway 11 employees that are Rutan-exempt. 12 I'll also indicate that the Tollway 13 maintains an at-will employment relationship with 14 exempt hires, and the Tollway has a general hiring 15 practice for the posting of positions here at the 16 Tollway for exempt hires, which I'm going to talk 17 about, you know, as we proceed with the 18 presentation. 19 So if we can turn to the next slide. 20 So what you see before you is a 21 general overview of the current state of the steps 22 involved in a hiring for an exempt candidate. 23 So we'll follow by the need 24 justification, there will be position approval,</p>	<p style="text-align: right;">Page 61</p> <p>1 is a particular need in the department to fill an 2 exempt position, the Chief of Administration will 3 make a determination as to whether or not that will 4 be an internal or external recruitment process. 5 So there are three recruitment 6 processes that we follow. 7 There's an external recruitment, an 8 internal recruitment, and then there's one that's 9 called a critical recruitment process. 10 So under the external recruitment, 11 this is typically where a vacant position is 12 externally advertised in various media outlets, 13 job boards, et cetera. 14 The internal recruitment is 15 primarily a case where there is a specific need in 16 a department for a specific skillset, and that 17 posting is handled within the department. 18 And then, finally, there is a 19 critical recruitment where, at the discretion of 20 the Executive Director, a position needs to be 21 filled on an emergency basis for a critical 22 leadership position. 23 Now I'll move to the selection of a 24 candidate.</p>

<p style="text-align: right;">Page 62</p> <p>1 In the current state, historically</p> <p>2 the Hiring Manager would determine the applicant</p> <p>3 pool. When selecting the candidates to interview,</p> <p>4 of course they would ensure that the candidate --</p> <p>5 or is to ensure that the candidate that's being</p> <p>6 reviewed actually has the proper skills and</p> <p>7 educational requirements and training to actually</p> <p>8 fill the particular role.</p> <p>9 When that person is chosen, they</p> <p>10 will prepare a justification memo that's directed</p> <p>11 to the Chief of Administration, and then there's</p> <p>12 appropriate -- then there's also approval needed by</p> <p>13 the Executive Director on that particular hire, and</p> <p>14 there's a job offer memo created as well for the</p> <p>15 candidate to sign off and review.</p> <p>16 So as a result of actually taking a</p> <p>17 look at the current practices over the hiring</p> <p>18 process for exempt positions, there are a number</p> <p>19 of recommendations that we are bringing to the</p> <p>20 Committee.</p> <p>21 And this slide here kind of talks</p> <p>22 about those recommendations at a high level. And</p> <p>23 I'll kind of go through the list.</p> <p>24 So what we're looking to see here is</p>	<p style="text-align: right;">Page 64</p> <p>1 We're also looking to have all</p> <p>2 positions of exempt status posted on the Tollway</p> <p>3 website. We want to see that exempt job postings</p> <p>4 are also posted externally.</p> <p>5 I'll walk through a slide here that</p> <p>6 will talk about incorporating a review of conflict</p> <p>7 of interest disclosures.</p> <p>8 And lastly, I'll, you know, talk</p> <p>9 about what our continuous monitoring is of exempt</p> <p>10 hires from an Internal Audit standpoint.</p> <p>11 So if you turn to the next page,</p> <p>12 so here I want to highlight the documentation</p> <p>13 requirement.</p> <p>14 And I will say that a leadership</p> <p>15 change occurred in the April-May time frame, and</p> <p>16 during that period, the leadership that was brought</p> <p>17 on is very skilled in looking at, you know, Rutan-</p> <p>18 covered and Rutan-exempt position. And so that's</p> <p>19 been very instrumental in helping to determine,</p> <p>20 you know, what steps needed to be included in the</p> <p>21 process.</p> <p>22 So from a documentation standpoint,</p> <p>23 we wanted to ensure complete transparency in the</p> <p>24 process. And in order to accomplish that, we</p>
<p style="text-align: right;">Page 63</p> <p>1 that there should be an enhancement of the job</p> <p>2 description.</p> <p>3 And I will add that, while the job</p> <p>4 descriptions, as Kent talked about, is part of</p> <p>5 something that his team is looking at, the</p> <p>6 importance of really taking another look at</p> <p>7 those job descriptions is to ensure that the</p> <p>8 responsibility and the skills and requirements are</p> <p>9 detailed enough so that we are ensuring that we're</p> <p>10 getting a qualified candidate for that particular</p> <p>11 role.</p> <p>12 So since last -- since this past</p> <p>13 April, that process has started, and we are looking</p> <p>14 to have that, obviously, continue in future</p> <p>15 positions that are open and at exempt status.</p> <p>16 We also want to see, which is very</p> <p>17 critical in this process, the documentation of the</p> <p>18 exempt hiring process. While, as I mentioned,</p> <p>19 there was a practice here at the Tollway for exempt</p> <p>20 hiring, that the process was not documented, and</p> <p>21 that's really important just to ensure transparency</p> <p>22 over the process, and to ensure that all position</p> <p>23 hirings in the exempt status are handled the same</p> <p>24 way.</p>	<p style="text-align: right;">Page 65</p> <p>1 wanted to make sure that the hiring managers</p> <p>2 understood the importance, one, of listing all of</p> <p>3 the applicants that responded to the job posting.</p> <p>4 We want to make sure that all the</p> <p>5 candidates interviewed have been listed and</p> <p>6 documented.</p> <p>7 We want to ensure that there is at</p> <p>8 least a set of standardized questions with</p> <p>9 responses that would be elicited from the</p> <p>10 candidates that are brought in to interview. And</p> <p>11 that's also to be documented in a file.</p> <p>12 We want to ensure that there's --</p> <p>13 that there is a -- if indeed -- and I'll talk about</p> <p>14 the supplemental application question response --</p> <p>15 but if indeed that is applicable to the hire, we</p> <p>16 will want that in a file as well.</p> <p>17 We want to make sure that, you know,</p> <p>18 reference checks are performed and documented and</p> <p>19 that there's a justification memo in the file, as</p> <p>20 well as a candidate offer letter.</p> <p>21 So in completion -- completing some</p> <p>22 of the steps identified here, that would just</p> <p>23 ensure a very transparent, you know, process over</p> <p>24 the exempt hires.</p>

<p style="text-align: right;">Page 66</p> <p>1 I know I was kind of going through 2 this rather fast, but are there any questions up to 3 this point? 4 CHAIRMAN SCHILLERSTROM: So substantial 5 changes have been made in the last couple months, I 6 take it. 7 MS. ROUSE: Absolutely, yes. 8 CHAIRMAN SCHILLERSTROM: Regarding exempt, 9 and then from nonexempt also. 10 MS. ROUSE: So the next page is something 11 that we are recommending, which talks about 12 instituting a supplemental application question for 13 employees that are brought in for interview. 14 And what we are asking for here is 15 to ask the candidate, during the interview, to 16 complete a supplemental question that will seek a 17 yes-or-no response to a question that asks if the 18 candidate is a relative of a known Tollway vendor, 19 employee, or political -- or elected official. 20 And a response to this question 21 doesn't, you know, indicate that the person will 22 not be able to proceed with the process. What it 23 does is it flags this possible conflict of interest 24 for the Tollway.</p>	<p style="text-align: right;">Page 68</p> <p>1 CHAIRMAN SCHILLERSTROM: So it's essentially 2 an additional set of reviews. 3 MS. ROUSE: It's an additional set of 4 reviews, right. And it provides documentation for 5 the Tollway to at least note that this question 6 was, you know, asked and the candidate had an 7 opportunity to, you know, provide this level of 8 information, and the Tollway had an opportunity to 9 review it. 10 DIRECTOR MORGAN: And what if the candidate 11 makes it through the Rutan process, would they be 12 asked to fill out this form as well? 13 MS. ROUSE: So right now we have not 14 instituted -- we are not recommending this for the 15 Rutan-covered positions because the process in 16 itself should basically, you know, assist that with 17 the way that the Rutan-covered, you know, hiring 18 process, you know, is actually -- go ahead. I'll 19 let you go. You look like you're waiting. 20 MR. JAMES: Not necessarily. 21 So there's different scrutiny over 22 the exempt position. So what you want to do is 23 define a process that's transparent, because you 24 have more flexibility in appointing people into</p>
<p style="text-align: right;">Page 67</p> <p>1 So once this has been identified 2 with a "yes" response, if applicable, then the 3 candidate will be instructed to fill out a form 4 which will provide us with some more detailed 5 information in regard to, you know, where that 6 conflict could exist and where that relationship is 7 from a relative standpoint. 8 The form will then be brought in to 9 internal audit, as well as the ethics office, for 10 review. Those two offices will take a look at the 11 skills of the candidate, résumé, comparing to the 12 job description, just to ensure that the person has 13 the skills and responsibilities that are needed for 14 this particular role. 15 And with the approval from both 16 offices, will prepare a response back to the Chief 17 of Administration, and then they will continue to 18 proceed through the hiring process. 19 So this is a way that we feel as if 20 the Tollway can be a little bit more transparent, 21 you know, in this area of conflict of interest, but 22 then hopefully roll out something very similar to 23 all employees. 24 Any questions there?</p>	<p style="text-align: right;">Page 69</p> <p>1 those roles. 2 So the need Rutan-covered, it's so 3 quantitative, the selection process, that it's very 4 unlikely and almost impossible that there was any 5 influence to get a person in to an interview or a 6 role. It just can't happen because it's blind. 7 CHAIRMAN SCHILLERSTROM: And it's objective. 8 MR. JAMES: Yes. So, again, it's a very 9 different process on that side. 10 MS. ROUSE: So I'd like to kind of take us to 11 the next slide. 12 So one other item that was kind of 13 absent on the exempt hiring side was a hiring 14 packet. So we are recommending that a hiring 15 packet is established for all exempt hire positions. 16 And in this packet, it would include 17 the job description, the position determination 18 form showing that the position is actually exempt. 19 We're looking for position requisition, a listing 20 of all the applicants, a list of the Tollway 21 employees that actually were involved in the 22 interview process. 23 We want copies of the Tollway's job 24 application or résumé for each of the interviewed</p>

<p style="text-align: right;">Page 70</p> <p>1 applicants. We're looking at required -- the 2 conflict of interest supplemental questions 3 responses. We want notes and supporting 4 documentation from the interview. We want to see 5 the job offer and acceptance memo signed by the 6 Executive Director. 7 And just to ensure that these items 8 are included in the hiring packet, we want to see a 9 checklist that has been reviewed at the end of the 10 hiring process to make sure that all the documents 11 have been contained in the file. 12 And this will lead -- not only, 13 again, ensure transparency, but it's also an 14 auditable process for us to come in and make sure 15 that everything in the hiring process was handled 16 the way it needed to according to our internal 17 policies and procedures. 18 So, lastly, Internal Audit annually 19 is involved in reviewing Rutan positions. So in 20 our annual audit plan, we have hours designated to 21 what we term a Rutan audit, which covers a review 22 of Rutan-exempt positions. 23 And the, of course the objective of 24 that is to assure that exempt hires are performing</p>	<p style="text-align: right;">Page 72</p> <p>1 basis and, you know, we will -- you know, as we 2 enhance the process, and hopefully through the 3 recommendations that we have covered here will be 4 part of a documented SOP over the hiring process. 5 Any questions? 6 CHAIRMAN SCHILLERSTROM: So obviously we've 7 made substantial changes, and certainly sounds like 8 things are going to function a lot better, we're 9 going to be more transparent and have a better pool 10 to select employees from, primarily just because 11 we're doing it quicker, if nothing else. 12 Are there any specific things that 13 you would ask this Committee to recommend to the 14 Board as a whole at this point? 15 MS. ROUSE: None other -- at least from 16 my vantage point, none other than take the 17 recommendations that we have identified in the 18 report. 19 CHAIRMAN SCHILLERSTROM: Okay. Very good. 20 All right. Any questions? 21 DIRECTOR STEPHENS: No, sir. 22 CHAIRMAN SCHILLERSTROM: Yes? 23 MR. ARTL: From our vantage point, this is 24 something that no other agency has embarked on in</p>
<p style="text-align: right;">Page 71</p> <p>1 duties in their official job descriptions. 2 And we also looked to make sure that 3 there is documentation of a position determination 4 on file. 5 So, now, the components that are 6 involved when we're performing this audit, we 7 include -- we select a sample -- we obtain a list 8 of Rutan-exempt employees from administration, we 9 take a sample of those employees, we interview 10 them, we have them document in a questionnaire what 11 their key tasks and responsibilities are. 12 We compare that to the job 13 description to ensure that, again, that they are 14 working in the role in which they were hired for, 15 and then we also make sure that their skills on the 16 résumé and requirements match the job description 17 as well. 18 So we do this on an annual basis. 19 Any exception items we will provide to the Chair of 20 the Audit Committee, to the Department Chief as 21 well. And, you know, look and see if an action 22 plan, if indeed there were any exceptions noted. 23 But this is a review, again, that 24 I'll highlight as something that we do on an annual</p>	<p style="text-align: right;">Page 73</p> <p>1 the state, so ... 2 CHAIRMAN SCHILLERSTROM: Well, thank you very 3 much for your insights, and also for what you've 4 been doing to make the organization work better. 5 I think it's probably unknown that 6 many of these changes have been made in the last 7 number of months, and many of them have been made 8 through your leadership and through the leadership 9 of Ms. Gorman. 10 So I appreciate that. And we 11 will -- the Committee will obviously look at making 12 additional changes. And, you know, we learn from 13 our past. 14 So we look forward to staying in 15 touch with you, and thank you for being here today, 16 and thank you for your leadership. 17 Any questions from any members of 18 the Committee? 19 DIRECTOR BANKS: No, sir. 20 CHAIRMAN SCHILLERSTROM: All right. 21 Thank you. 22 So do you have anything, Ms. Gorman, 23 that you'd like to bring up? 24 DIRECTOR GORMAN: No. I just want to thank</p>

<p style="text-align: right;">Page 74</p> <p>1 everybody for their testimony, their help in, you 2 know, nailing down the processes and the changes; 3 and, you know, we look forward to compiling the 4 report with everybody's testimony, what we're doing 5 right, what needs to be tweaked. 6 So we look forward to working and 7 submitting future questions from here on out as 8 need be. 9 Also, this has been entered in the 10 record from the former chief, Rich Raczynski -- 11 CHAIRMAN SCHILLERSTROM: Right. 12 DIRECTOR GORMAN: -- the letter. So we thank 13 him for that as well. 14 CHAIRMAN SCHILLERSTROM: Okay. So then at 15 this point, I think it would be appropriate for 16 the -- we've had three meetings now, with a variety 17 of people coming in and talking to us and giving us 18 summaries and recommendations. 19 And I think it would be appropriate 20 for the staff to collate this information, pull it 21 together; and if, after you've done some of that, 22 you think that we need to have additional meetings, 23 the Committee is more than happy to have another 24 committee meeting or more committee meetings, bring</p>	<p style="text-align: right;">Page 76</p> <p>1 everything is videoed these days. This was not 2 videoed by any -- anybody. What we found by 3 turning our cameras, we saw this. And it's really 4 an amazing display of heroism that these people 5 exhibited to save this young woman's life. 6 And it's a very short video. So at 7 this point, I think it's -- it just shows the 8 goodness of people and true heroism to see this. 9 (Video played.) 10 CHAIRMAN SCHILLERSTROM: Pretty moving. 11 These are people that didn't know each other, that 12 just pulled over, worked together, pulled this 13 young woman out, gave her CPR, and then the others 14 went back to the vehicle and looked to see if there 15 were other people in there, and they without a 16 doubt saved this woman's life. She would have 17 drowned otherwise. So it's quite moving. 18 So anyhow, is there any other New 19 Business to come before us at this time? 20 (No response.) 21 If not, I would entertain a motion 22 to adjourn. 23 DIRECTOR BANKS: Motion to adjourn. 24 CHAIRMAN SCHILLERSTROM: Is there a second?</p>
<p style="text-align: right;">Page 75</p> <p>1 additional people in. 2 And ultimately we are going to look 3 to the staff for, you know, recommendations that 4 this Committee can consider adopting and -- should 5 they choose to adopt recommendations -- and it 6 seemed to me that, based on what we've heard, 7 that there may be a number of them -- that we'd 8 recommend them to the Toll Board as a whole. 9 So if -- we will then proceed. Is 10 there any Unfinished Business to come before the 11 Committee at this point? 12 (No response.) 13 I would note that we do not have any 14 Executive Session info, so we'll proceed to New 15 Business. 16 And under New Business, we have a 17 video. 18 MS. Gorman and I were a little late 19 coming today because we were up at the maintenance 20 facility in Naperville, where the State Police were 21 honoring a variety of citizens who saved the life 22 of a young woman who overturned her car into a 23 retention pond. 24 And, you know, it's interesting,</p>	<p style="text-align: right;">Page 77</p> <p>1 DIRECTOR STEPHENS: Second. 2 CHAIRMAN SCHILLERSTROM: Moved and seconded. 3 Any discussion? 4 (No response.) 5 Hearing nothing, all those in favor 6 of adjourning as moved, please state aye. 7 (Chorus of ayes.) 8 Opposed? 9 (No response.) 10 We are adjourned. And I thank you. 11 (The proceedings adjourned at 12 11:59 a.m.) 13 14 15 16 17 18 19 20 21 22 23 24</p>

REPORTER'S CERTIFICATE

I, Donna M. Urlaub, do hereby certify that
I reported in shorthand the proceedings of said
hearing as appears from my stenographic notes so
taken and transcribed under my direction.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal of office at Chicago,
Illinois, this 31st day of August 2018.



Illinois CSR No. 084-000993

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Fitch Affirms Illinois State Toll Highway Authority's Revs at 'AA-'; Outlook Stable

Fitch Ratings-Chicago-09 August 2018: Fitch Ratings has affirmed the 'AA-' rating on the Illinois State Toll Highway Authority's (ISTHA) \$6.1 billion of outstanding toll highway senior revenue bonds. The Rating Outlook remains Stable.

KEY RATING DRIVERS

Summary: The rating reflects the essentiality of the tollway system, evidenced by its long-term growing traffic base and moderate price elasticity. The rating further reflects ISTHA's prudent debt management with strong historical and projected debt service coverage ratios (DSCR) with a major capital program underway. The potential risks posed by ISTHA's large capital program are largely mitigated by a history of delivering capital programs on time and under budget, a very robust balance sheet position, and an already implemented 60% aggregate commercial toll increase phased in since 2015, which complements the 88% passenger vehicle toll increase in 2012.

ESSENTIAL ROAD NETWORK WITH STABLE DEMAND (Revenue Risk: Volume - Stronger)

The tollway system provides critical transportation links that serve the Chicago and northern Illinois metropolitan area providing key connections to interstate highways. Toll transactions have grown nearly every year since 1974; the 2012-2017 compounded annual growth rate (CAGR) of 4.4% is slightly muted by some elasticity to the 2012 passenger toll increase. However, price elasticity has proven relatively inelastic for passenger traffic and even more so for commercial vehicles. The network benefits from a passenger vehicle base, comprised mostly of commuters, that accounts for nearly 89% of total transactions.

DEMONSTRATED RATE-MAKING FLEXIBILITY (Revenue Risk: Price - Stronger)

While ISTHA has full legal authority to adjust toll rates and has demonstrated in the recent past a willingness to implement significant increases when necessary, future toll increases beyond those currently approved are uncertain. A passenger vehicle toll increase of 88% was implemented in 2012 and an aggregate 60% commercial toll increase was phased in between 2015-2017, with CPI-based increases to commercial

tolls thereafter.

LARGE CAPITAL PLAN PARTIALLY DEBT FUNDED (Infrastructure Development/Renewal - Midrange)

ISTHA is in the seventh year of its 15-year, \$14.3 billion MOVE Illinois capital program. Funding is expected to come from \$6.0 billion of new money debt issuances (\$2.8 billion of which has already been issued) with the remainder from cash flow, supported by recent and future toll increases as well as the implementation of a new video toll fee effective as of February 2018. The authority has substantially completed its existing \$5.7 billion congestion relief program (CRP) on time and under budget, and MOVE Illinois is similarly proceeding according to plan.

REDUCED VARIABLE-RATE EXPOSURE (Debt Structure - Stronger)

All debt is senior lien and fully amortizing. Further, the ISTHA has taken steps to stabilize its capital structure evidenced by reducing its variable rate exposure to approximately 19% of aggregate debt and fully hedging its interest costs through swaps with multiple financial counterparties, all rated at least 'A' category by Fitch, with the exception of Deutsche Bank(BBB+/Stable). Maximum annual debt service (MADS) is currently \$486 million in 2030 but is estimated by the authority to increase to approximately \$644 million after all MOVE Illinois borrowing is taken into account.

Financial Metrics: The current tollway system's \$6.1 billion debt burden is expected to increase measurably to \$8.0 billion in conjunction with the completion of the capital program. However, the authority's net debt-to-cash flow available for debt service (CFADS) is moderate at approximately 4.0x for FY17 and is not expected to increase higher than 6.5x as a result of the MOVE Illinois program. DSCR has historically been above 2.0x, including over 2.5x since fiscal 2015. Fitch's rating case projections indicate DSCR should average 2.2x through the next 10 years. Strong liquidity of over 1,400 days cash on hand as of fiscal 2017 provides the authority with additional financial flexibility, although this will contract to partly fund the MOVE Illinois program.

PEER GROUP

The closest Fitch-rated large expressway network peers include Harris County Toll Road Authority (HCTRA, AA/Stable) and Central Florida Expressway Authority (CFEA, A/Stable), despite a significantly larger annual volume and toll revenue base for ISTHA. The authority has higher coverage and lower leverage than CFEA but lower coverage and higher leverage and capital needs when compared to HCTRA, which largely explains its rating relative to these peers.

RATING SENSITIVITIES

Future Developments That May, Individually or Collectively, Lead to Negative Rating Action:

- Stabilized leverage above 8.0x;
- DSCR falling below 1.8x for a sustained period;
- A rising interest rate environment given the authority's vast and prolonged borrowing needs.

Future Developments That May, Individually or Collectively, Lead to Positive Rating Action:

- Given the authority's sizeable, multi-year capital program, upward migration is not likely at this time.

CREDIT UPDATE

Performance Update

A 6.7% increase in commercial tolls was implemented in January 2017, and as of the end of FY17 toll revenues were up 7.6% year over year. FY17 was the last of three approved commercial toll increases that began in 2015 and totalled a cumulative 60% increase in commercial tolls. From 2018 forward, the tollway plans annual inflationary increases to their commercial toll rates, while holding the passenger toll constant.

For the first five months of FY18, transactions are up 3.5% and revenues are also up 4.7% with solid growth coming from both passenger cars and commercial vehicles. Year-to-date both revenues and expenses are closely tracking to budget, which would equate to annual DSCR of around 2.5x, consistent with historical levels should similar performance trends continue.

Despite increased debt service obligations from MOVE Illinois borrowings, DSCR grew to a very robust 2.7x in 2017 as a result of strong traffic growth coupled with prudent operating expense management (grew just 3.3%) and the commercial toll increase. Coverage exceeded Fitch's base case projection of 2.5x but is expected to temper somewhat as the additional operational and debt service costs of the MOVE Illinois program advance.

Through 2018, around \$5 billion will have been invested by the Illinois Tollway since the Move Illinois Program began in 2012. The 15-year nature of the program allows flexibility in timing and funding should it become necessary, but the project remains on

schedule and on budget.

Fitch Cases

Under Fitch's base case scenario, which assumes more tempered traffic growth than the authority's projections (Fitch assumed a 2.0% CAGR between 2017 and 2027) but similar operating expense assumptions (CAGR of 4.6%), 10-year DSCR averages 2.3x and never drops below 2.0x assuming no further passenger car toll rate increases. This scenario includes another anticipated \$2.9 billion in new money bonds for the MOVE Illinois program with a majority borrowed at a 5.5% rate, which Fitch believes is a reasonable rate assumption. Despite debt outstanding growing to \$8.0 billion by the end of the program, leverage remains fairly constant, peaking at 6.0x.

Fitch's rating case assumes greater price elasticity to the toll increases for commercial traffic as well as a less positive impact on transactions from MOVE Illinois capital improvements such that total traffic grows at a 1.5% CAGR between 2017 and 2027. Expenses are also assumed to grow at least 50-100 bps higher than the base case in each year. All additional MOVE Illinois debt service was modelled identically to the base case. Under this scenario, the 10-year average DSCR assuming no further passenger toll increases is 2.2x and remains above 1.8x. Leverage peaks slightly higher at 6.1x but still remains within the bounds for a large, mature network in the 'AA' rating category.

Fitch also conducted breakeven analyses to determine what growth in revenue would be needed in both the base and rating case to produce DSCR of at least 1.0x using estimated 2018 revenue. Both scenarios indicated very little-to-negative dependence on future growth with revenue breakevens of -0.19% average annual revenue growth in the base case and just a modest 0.16% in the rating case. This dependence on revenue growth in the Fitch rating case is only necessary because of the authority's increasing operating expense profile modelled at 4.5% per annum, which causes CFADS to fall over time.

In addition, Fitch analysed MADS coverage using projected 2018 CFADS from its rating case and coverage is a strong 2.2x, again indicating little reliance on growth as the 2018 CFADS could more than cover the projected escalation in annual debt service resulting from the additional MOVE Illinois borrowing. The tollway's strong franchise strength taken together with its robust financial metrics and very limited dependence on growth remain commensurate with its 'AA' category rating.

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A January 2018 district court ruling that dismissed claims regarding payment of Puerto Rico Highways and Transportation Authority debt has raised questions about the scope of protections provided by Chapter 9 of the U.S. bankruptcy code to bonds secured by pledged special revenues. Fitch's rating criteria treat special revenue obligations as independent from the related municipality's general credit quality. The outcome of the litigation could result in modifications to Fitch's approach. For more information, see "What Investors Want to Know: The Impact of the Puerto Rico Ruling on Special Revenue Debt" available at www.fitchratings.com.

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Applicable Criteria

Rating Criteria for Infrastructure and Project Finance (pub. 27 Jul 2018)
(<https://www.fitchratings.com/site/re/10038532>)

Toll Roads, Bridges and Tunnels Rating Criteria (pub. 30 Jul 2018)
(<https://www.fitchratings.com/site/re/10038900>)



Rating Action: Moody's assigns Aa3 to ISTHA's (IL) 2017 Series A senior revenue bonds; Outlook stable

06 Nov 2017

New York, November 06, 2017 -- Issue: Toll Highway Senior Revenue Bonds 2017 Series A; Rating: Aa3; Rating Type: Underlying LT; Sale Amount: \$300,000,000; Expected Sale Date: 11/15/2017; Rating Description: Revenue: Government Enterprise;

Summary Rating Rationale

Moody's Investors Service assigns Aa3 senior lien rating with stable outlook to the Illinois State Toll Highway Authority's (ISTHA or authority) Toll Highway Senior Revenue Bonds 2017 Series A.

The Aa3 and stable outlook reflect steady traffic and revenue growth supported by implemented and approved future toll increases; a demonstrated recent track record of delivering large, complex capital programs within budget; rapid (25 year) debt amortization as required by Illinois statute; forecasted above two times debt service coverage ratios (DSCRs) under the base case financing plan that includes all planned Move Illinois debt; maintenance of strong liquidity levels and slightly better than forecasted financial results over the last two years.

As an independent authority, ISTHA's credit strength is not directly connected to that of the State of Illinois (Baa3, negative). ISTHA's strong financial metrics, autonomy to set its toll rates to recover costs, and both the statutory and bond indenture requirement that excess revenues in the system reserve account may be used only for reasonable and necessary tollway system purposes currently support a strong distinction in credit strength. Changes to any of these factors may increase the connection between the credit strength of ISTHA and the state.

Rating Outlook

The stable outlook is based on Moody's expectation that the authority will continue to generate revenues sufficient to maintain debt service coverage ratios (DSCRs) at or above two times including all of the planned debt to fund the Move Illinois CIP and also maintain strong liquidity levels, particularly given high exposure to variable rate debt and derivatives. The outlook is also based on the assumption that approved commercial toll increases will be implemented as planned and that the authority will maintain its independence from the state despite the state's current fiscal pressures. The stable outlook is also based on our expectation that construction costs for the Move Illinois projects will be in line with estimates.

Factors that Could Lead to an Upgrade

Traffic and revenues that significantly exceed current projections

DSCRs above the base case forecast and consistently over two times

Capital projects are delivered on schedule and within budget

Factors that Could Lead to a Downgrade

Traffic and revenues fall short of current projections and DSCRs fall below forecasted levels

Issuance of additional debt to fund other projects without offsetting toll rate increases or revenue growth, or that results in lower DSCRs or liquidity

Debt to operating revenues above six times

Liquidity below one year of days cash on hand

Legal Security

The bonds are secured by the net revenues of the authority. The authority has by statute the exclusive and autonomous right to set and collect tolls. The rate covenant and additional bonds test for the authority's senior bonds are satisfactory relative to toll highways in this rating category. Net revenues must be at least equal to 1.30 times aggregate annual debt service. The additional bonds test is also 1.30 times. The debt service reserve requirement is equal to maximum aggregate annual debt service, and is mostly cash-funded (as of 12/31/16 \$366.5 million in cash and investments and a \$100 million

policy from Berkshire Hathaway Assurance Corporation rated Aa1). Per the Toll Highway Act, remaining excess revenues retained in the system reserve account may be spent only for reasonable and necessary tollway authority purposes.

Use of Proceeds

The 2017 Series A bonds are being issued as fixed rate bonds to fund on-going construction costs of the Move Illinois Program.

Obligor Profile

The authority operates a tollway system that consists of approximately 296 miles of limited access highway in twelve counties in the northern part of Illinois and is an integral part of the expressway system in northern Illinois. The entire tollway system has been designated a part of the US Interstate Highway System, except for the approximately 10-mile portion of Illinois Route 390. Approximately 11.8% of traffic is commercial but this class of vehicles accounted for over 42.2% of revenues in FY 2016. The percentage of commercial revenues is forecasted to surpass passenger vehicles by 2026 due to regular toll rate increases for this class.

The system consists of five components: the new Illinois Route 390 (formerly the Elgin O'Hare Expressway) whose first 6.5 mile segment opened in July 2016, and second segment opened in November 2017. At completion the Elgin O'Hare Western Access Project will total 17 miles and provide Western access to O'Hare airport; the 76 mile Jane Addams Memorial Tollway, which constitutes a portion of US Interstate Highway 90; the 84 mile Tri-State Tollway constituting portions of US Interstate Highways 80, 94 and 294; the 30 mile Veterans Memorial Tollway (Interstate 355) which opened in December 1989, and the 96.5 mile Ronald Reagan Memorial Tollway that constitutes a portion of US Interstate Highway 88.

Methodology

The principal methodology used in this rating was Government Owned Toll Roads published in November 2016. Please see the Rating Methodologies page on www.moody.com for a copy of this methodology.

Regulatory Disclosures

For ratings issued on a program, series or category/class of debt, this announcement provides certain regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides certain regulatory disclosures in relation to the credit rating action on the support provider and in relation to each particular credit rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides certain regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on www.moody.com.

Regulatory disclosures contained in this press release apply to the credit rating and, if applicable, the related rating outlook or rating review.

Please see www.moody.com for any updates on changes to the lead rating analyst and to the Moody's legal entity that has issued the rating.

Please see the ratings tab on the issuer/entity page on www.moody.com for additional regulatory disclosures for each credit rating.

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**AMENDED AND RESTATED
TRUST INDENTURE**

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

TO

**THE FIRST NATIONAL BANK OF CHICAGO,
AS TRUSTEE**

Effective March 31, 1999

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THIS TRUST INDENTURE dated as of December 1, 1985 (the "Indenture"), by and between The Illinois State Toll Highway Authority, an instrumentality and an administrative agency of the State of Illinois (hereinafter sometimes referred to as the "Authority"), and The First National Bank of Chicago, a national banking association duly organized, existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the United States of America, with its principal corporate trust office located at One First National Plaza, Chicago, Illinois, as Trustee (hereinafter sometimes referred to as the "Trustee"),

WITNESSETH:

WHEREAS, the Authority is an instrumentality and administrative agency of the State of Illinois, created and existing under the laws of the State of Illinois, particularly the Act (hereinafter defined); and

WHEREAS, pursuant to the Act the Authority is authorized to issue its revenue bonds for the purpose of refunding or advance refunding any of its outstanding revenue bonds and for any other lawful Authority purpose; and

WHEREAS, the Authority intends to issue and sell Additional Bonds (hereinafter defined) for the purpose of extending the Tollway System (hereinafter defined); and

WHEREAS, the Authority deems it to be in its best interest to make provision for the issuance of Additional Bonds for various improvements to the Tollway System; and

WHEREAS, in order to provide for the issuance of Additional Bonds for the purpose of extending the Tollway System, it is necessary to advance refund the 1955 Bonds (hereinafter defined); and

WHEREAS, pursuant to a resolution the Authority has duly authorized the issuance of its \$167,200,000 aggregate principal amount 1985 Series Bonds (hereinafter defined) for the purpose of advance refunding the 1955 Bonds, and has, with the Treasurer of the State of Illinois, appointed The First National Bank of Chicago to act as Trustee under this Indenture; and

WHEREAS, all things necessary to make the 1985 Series Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the Authority according to the import thereof, and to constitute this Indenture a valid, pledge of and grant of a lien on the Revenues (hereinafter defined) for the purpose of providing for the operation and maintenance of the Tollway System and to secure the payment of the principal of, premium, if any, and interest on the Bonds (hereinafter defined); and

WHEREAS, the execution and delivery of this Indenture, and the execution and issuance of the 1985 Series Bonds, subject to the terms hereof, have in all respects been duly authorized.

GRANTING CLAUSES

In order to secure and provide for payment of the principal, redemption premium and interest on the Bonds, the Authority pledges and grants a lien to the Trustee on:

- (a) The Revenues;
- (b) All moneys and securities and earnings on them in all Funds, Accounts and Sub-Accounts established pursuant to this Indenture;
- (c) Any and all other moneys, securities and property furnished from time to time to the Trustee by the Authority or on behalf of the Authority or by any other persons to be held by the Trustee under the terms of this Indenture;

all as and to the extent, and subject to the limitations, as provided in this Indenture, and also subject to the rights, if any, of the holders of the bonds issued under the 1955 Bond Resolution which remain from time to time undischarged to the extent that the amounts in the irrevocable trust fund established pursuant to the escrow agreement dated as of December 1, 1985, relating to those bonds should be insufficient to pay interest on, premium if any, and principal on those bonds when required to be paid pursuant to that resolution.

The Authority and the Trustee agree as set forth in this Indenture. This Indenture shall constitute a contract among the Authority, the Trustee, and the Holders from time to time of Bonds, all as and to the extent provided in this Indenture.

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 101. Definitions. The following terms shall, for all purposes of this Indenture, have the following meanings unless a different meaning clearly appears from the context:

"Accountant" means an independent certified public accountant or a firm of independent certified public accountants of recognized national standing (who may be the accountants who regularly audit the books of the Authority) who are selected and paid by the Authority and who shall not have been engaged by any person or entity other than the Authority to render accounting services with respect to the books and records of the Authority for the period or any portion thereof to be covered by the accounting services to be rendered on behalf of the Authority.

"Act" means the Toll Highway Act, 605 ILCS 10/1.1, et seq., as amended to the date of the 1996 Amended Supplemental Indenture.

"Additional Bonds" means Additional Senior Bonds issued pursuant to Section 204 and any Junior Bonds issued pursuant to the terms of Section 205.

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"Additional Senior Bonds" means any Bond or Bonds originally issued in accordance with Section 204 after the effectiveness of the 1996 Amended Supplemental Indenture.

"Aggregate Debt Service" means, for any Fiscal Year and as of any date of calculation, the sum of the amounts of Debt Service for such Fiscal Year with respect to all Series of Senior Bonds.

"1996 Amended Supplemental Indenture" means the 1996 Amended Supplemental Indenture between the Authority and the Trustee.

"Annual Budget" means the annual budget of the Authority, as amended or supplemented, adopted or in effect for a particular Fiscal Year pursuant to Section 710.

"Authority" means The Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, created and existing under the Act, and its successors.

"Authorized Newspaper" means a newspaper or financial journal customarily circulated at least once a day for at least five days (other than legal holidays) in each calendar week, printed in the English language and of general circulation in the Borough of Manhattan, in the City and State of New York or in the City of Chicago, State of Illinois.

"Authorized Officer" means any director, officer or employee of the Authority authorized to perform specific acts or duties by a resolution duly adopted by the Authority.

"Bond" or "Bonds" means any bond or bonds, including Senior Bonds and Junior Bonds, authenticated and delivered under and pursuant to this Indenture, other than Subordinated Indebtedness.

"Bondholder" or "Holder" means any person who shall be the bearer of any coupon Bond or Bonds or the registered owner of any registered Bond or Bonds without coupons.

"Business Day" means any day which is not a Sunday or a legal holiday or a day (including Saturday) on which banking institutions in the city where the principal corporate trust office of any Fiduciary is located are authorized by law or executive order to close (and such Fiduciary is in fact closed).

"Capital Appreciation Bond" means a Bond accruing interest that is compounded and added to principal as of such date or dates specified in the related Supplemental Indenture and is payable at maturity. Any Capital Appreciation Bond may mature on any date specified in the related Supplemental Indenture.

"Code and Regulations" means the Internal Revenue Code of 1986, as amended, and the regulations promulgated or proposed pursuant to it in effect from time to time.

"Construction Fund" means the Construction Fund established in Section 503.

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"Consulting Engineers" means an engineer or engineering firm or corporation at the time retained by the Authority pursuant to Section 709 to perform the acts and carry out the duties provided for such Consulting Engineers in this Indenture.

"Cost of Construction" means with respect to any Project the cost of construction, acquisition, installation, reconstruction, modification, preservation, replacement, repairs, renewals or enhancement, including without limitation, bridges over or under existing highways and railroads, the cost of acquisition of all land, rights of way, property, rights, easements and interests, acquired by the Authority for such construction, acquisition, installation, reconstruction, modification, preservation, replacement, repairs, renewals or enhancement, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of diverting highways, interchange of highways, access to roads to private property, including the cost of lands or easements, the cost of all machinery and equipment, financing charges, interest prior to and during work or construction and for up to two years after completion of the work or construction, the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any Project, administrative expenses and such other costs, expenses and funding as may be necessary or incident to the Project, the financing of such construction or work and the placing of such Project in operation.

"Costs of Credit Enhancement" means any fees of, or termination payments to, any Provider of Credit Enhancement.

"Costs of Hedge Agreement" means any fees of, or termination payments to, any Provider of a Hedge Agreement.

"Counsel's Opinion" means an opinion signed by an attorney or firm of attorneys of recognized standing in the area of law to which the opinion relates, who may be counsel to the Authority.

"Credit Enhancement" means any arrangement to provide additional security or liquidity for Bonds including, without limitation, surety bonds, bond insurance, letters of credit, lines of credit and purchase and remarketing agreements, but does not include Reserve Account Credit Facilities.

"Current Funds" means moneys which are immediately available in the hands of the payee at the place of payment.

"Debt Reserve Account" means the Debt Reserve Account established in Section 502.

"Debt Reserve Requirement" means, as of any date of calculation, the maximum annual Aggregate Debt Service for any Fiscal Year for all Senior Bonds.

"Debt Service" means, for any period longer than one month, as of any date of calculation, an amount equal to the sum of Principal Installments and interest on Senior Bonds payable (or for the payment for which amounts are required to be deposited in the Debt Service Account) during such period, except to the extent

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that such interest is to be paid from Bond proceeds deposited to the credit of the Debt Service Account. Interest and Principal Installment amounts payable shall be calculated, for purposes of this definition, on the assumption that Senior Bonds Outstanding at the date of calculation will cease to be Outstanding by reason, but only by reason, of the payment of each Principal Installment on its due date. Interest and Principal Installments payable on January 1 of any Fiscal Year shall be deemed to be payable on December 31 of the preceding year. For purposes of applying this definition under Section 713 and for purposes of determining the Debt Reserve Requirement, the amount of interest to be payable on Senior Bonds having variable interest rates, shall be computed by assuming, with respect to Senior Bonds interest on which is excludable from gross income of the Holders for federal income tax purposes, is a rate equal to the lesser of (i) the 30 Year Bond Buyer Revenue Bond Index as of the date of calculation, or (ii) the maximum interest rate on such Senior Bonds, and with respect to any Senior Bonds having a variable interest rate the interest on which is not excludable from "gross income" of the Holders for federal income tax purposes, a rate equal to the lesser of (i) one-hundred fifteen percent (115%) of the 30 Year Bond Buyer Revenue Bond Index as of the date of calculation, or (ii) the maximum interest rate on such Senior Bonds, including in each case any taking into account any Qualified Hedge Agreement as provided in Section 103. For purposes of the Debt Reserve Requirement this calculation shall be made as of a date selected by the Authority within thirty days preceding the date of issuance of each Series of Bonds for which such calculation is required. However, the rate for any such Series of Senior Bonds for which the variable interest rate is fixed for any portion of the applicable Fiscal Year shall be assumed to be the actual rate borne by such Senior Bonds. For purposes of applying this definition under clause (5) of subsection 1 of Section 204, the amount of interest to be payable on Senior Bonds having variable interest rates shall be computed at the maximum rate or amount for those Bonds, taking into account any Qualified Hedge Agreement. If a Series of Senior Bonds having variable interest rates is subject to purchase by the Authority pursuant to a mandatory or optional tender by the Holder, the "tender" date or dates shall be ignored and the stated Principal Installment dates of such Senior Bonds shall be used for purposes of calculating the Debt Service with respect to such Senior Bonds. If two Series of Senior Bonds having variable interest rates are issued simultaneously with inverse variable interest rates providing a composite fixed interest rate for such Senior Bonds taken at any time as a whole, such composite fixed rate shall be used in determining the Debt Service with respect to such Senior Bonds. Debt Service on Senior Bonds with respect to which there is a Qualified Hedge Agreement shall be calculated consistent with Section 103 of this Indenture. Debt Service shall include Costs of Credit Enhancement, Costs of Hedge Agreement and reimbursements to Providers of Credit Enhancement and Qualified Hedge Agreements, in each case to be paid as provided in a Supplemental Indenture from the Debt Service Account.

"Debt Service Account" means the Debt Service Account established in Section 502.

"Depository" means any bank, national banking association or trust company having capital stock, surplus and retained earnings aggregating at least \$8,000,000, or a savings or savings and loan institution having assets aggregating at least \$65,000,000, selected by the Treasurer (and with respect to Funds, Accounts and Sub-Accounts held by the Trustee, with the consent of the Treasurer, which consent shall not be unreasonably withheld) as a depository of moneys and securities held under the provisions of this Indenture, and may include the Trustee.

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"Escrow Agent" means with respect to any Bonds refunded under this Indenture, any trust company or Bank in the State of Illinois appointed by the Authority for such purpose in accordance with the Act.

"Event of Default" means any event so designated and specified in Section 801.

"Federal Securities" means (i) any direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America; (ii) any Municipal Bonds which are fully secured as to principal and interest by an irrevocable pledge of moneys or direct obligations of, or obligations unconditionally guaranteed by, the United States of America, which moneys or obligations are segregated in trust and pledged for the benefit of the holders of the Municipal Bonds; (iii) certificates of ownership of the principal of or interest on direct obligations of, or obligations unconditionally guaranteed by, the United States of America, which obligations are held in trust by a commercial bank which is a member of the Federal Reserve System; and (iv) interest obligations of the Resolution Funding Corporation, including, without limitation, interest obligations stripped by the Federal Reserve Bank of New York.

"Fiduciary" or "Fiduciaries" means the Trustee, the Registrar and the Paying Agents, or any or all of them, as may be appropriate.

"Fiscal Year" means the period January 1 through December 31 of the same year.

"Hedge Agreement" means a payment exchange agreement, swap agreement, forward purchase agreement or any other hedge agreement entered into by the Authority providing for payments between the parties based on levels of, or changes in interest rates, stock or other indices or contracts to exchange cash flows or a series of payments or contracts, including without limitation, interest rate floors, or caps, options, puts or calls, which allows the Authority to manage or hedge payment, rate, spread or similar risk with respect to any Series of Senior Bonds.

"Improvement" means any System Expansion Project or any acquisition, installation, construction, reconstruction, modification or enhancement of or to any real or personal property (other than Operating Expenses) for which a currently effective resolution of the Authority has been adopted authorizing the deposit of Revenues to the credit of the Improvement Account for such System Expansion Project or acquisition, installation, construction, reconstruction, modification or enhancement including, without limitation, the cost of related feasibility studies, plans, designs or other related expenditures.

"Improvement Account" means the Improvement Account established in Section 502.

"Improvement Requirement" means the aggregate of the amounts established by currently effective resolutions of the Authority for specified Improvements, based upon a certificate or certificates of the Consulting Engineers with respect to the estimated cost of such Improvements filed with the Authority from time to time, less the amounts previously withdrawn or transferred from the Improvement Account to pay the costs of any such Improvements.

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"Indenture" means this Trust Indenture dated as of December 1, 1985, by and between the Authority and the Trustee, as from time to time amended and supplemented.

"Interest Sub-Account" means the sub-account of that name in the Debt Service Account established in Section 502.

"Investment Securities" means any of the following securities authorized by law as permitted investments of Authority funds at the time of their purchase:

- (i) Federal Securities;
- (ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Government National Mortgage Association, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Export-Import Bank, Federal Financing Bank and Student Loan Marketing Association;

(iii) Investments in a money market fund registered under the Investment Company Act of 1940, as amended (including any such money market fund sponsored by or affiliated with any Fiduciary), comprised of any of the investments set forth in subparagraph (i) or subparagraph (ii) above;

(iv) Negotiable or non-negotiable certificates of deposit or time deposits or other banking arrangements issued by any bank, trust company or national banking association (including any Fiduciary), which certificates of deposit or time deposits or other banking arrangements shall be continuously secured or collateralized by obligations described in subparagraphs (i), (ii) or (iii) of this definition, which obligations shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit or time deposits or other banking arrangements and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association issuing such certificates of deposit or time deposits or other banking arrangements, which certificates of deposit or time deposits or other banking arrangements acquired or entered into pursuant to this subparagraph (iv) shall be deemed for purposes of this Indenture, including without limitation Section 603, to constitute investments and not deposits;

(v) With respect to moneys on deposit to the credit of the Debt Service Account, the Debt Reserve Account and the Construction Fund and its separate, segregated accounts (to the extent that the Construction Fund and such separate, segregated accounts are held by the Trustee) (except the Construction Fund revolving accounts), repurchase agreements with any bank, trust company or national banking association (including any Fiduciary) or government bond dealer reporting to the Federal Reserve Bank of New York continuously secured or collateralized by obligations described in subparagraph (i) of this definition, which

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obligations shall have a market value (exclusive of accrued interest) at all times at least equal to the amortized value of such repurchase agreements, provided such security or collateral is lodged with and held by the Trustee or the Authority as titleholder, as the case may be;

(vi) With respect to moneys on deposit to the credit of all Funds, Accounts and Sub-Accounts (except the Debt Service Account, the Debt Reserve Account, and the Construction Fund to the extent the Construction Fund is held by the Trustee, the separate, segregated accounts of the Construction Fund to the extent such accounts are held by the Trustee and the revolving accounts of the Construction Fund), repurchase agreements with any bank, trust company or national banking association (including any Fiduciary) or government bond dealer reporting to the Federal Reserve Bank of New York continuously and fully secured for the benefit of the Authority and the Holders of the Bonds as provided by applicable state law with respect to the investment of public funds;

(vii) Public housing bonds issued by public housing authorities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; and project notes issued by public housing authorities or by local public agencies, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(viii) Any Municipal Bond which has a rating by each rating agency from which the Authority has obtained Ratings for its Senior Bonds, which is not lower than the Rating provided by the respective rating agency for Senior Bonds; and

(ix) Any other investment securities as to which the Authority has received written advice from each rating agency which has a Rating for any Senior Bonds that investment in such securities will not result in a reduction of the Rating by the rating agency.

Investment Securities purchased after the date of issuance of the 1992 Series A Bonds shall be rated not lower than "BBB-" by Standard & Poor's Corporation, and "Baa" by Moody's Investors Service, or, in the case of Investment Securities described in subparagraph (iii), subparagraph (iv), subparagraph (v) or subparagraph (vi) of this definition, shall be secured or collateralized by Investment Securities rated not lower than "BBB" by Standard & Poor's Corporation and "Baa" by Moody's Investors Service.

"Junior Bond Debt Reserve Account or Accounts" means any Junior Bond Debt Reserve Account or Accounts established in Supplemental Indentures authorizing the issuance of Junior Bonds.

"Junior Bond Debt Service Account or Accounts" means any Junior Bond Debt Service Account or Accounts established in Supplemental Indentures authorizing the issuance of Junior Bonds.

"Junior Bonds Revenue Requirement" means for any Fiscal Year the amount required to be deposited from the Revenue Fund to any Junior Bond Debt Service Account and any Junior Bond Debt

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Reserve Account. For purposes of clause (5) of subsection (1) of Section 204 and of Section 713, the Junior Bond Revenue Requirement shall be the amount projected to be so required under the Supplemental Indentures authorizing the Junior Bonds, and taking into account, without limitation, (i) the expectations of the Authority as to the receipts, other than Revenues, which pursuant to the Supplemental Indentures authorizing Junior Bonds, will be applied to make such deposits to pay Principal Installments or interest, Costs of Credit Enhancement or Costs of Hedge Agreements and reimbursement to Providers of Credit Enhancement and Hedge Agreements on Junior Bonds to be paid from such Accounts; (ii) the expectations of the Authority as to future refinancings of Junior Bonds which were issued as provided in the Supplemental Indenture authorizing such Junior Bonds with the expectation of refinancing; and (iii) interest payable on Junior Bonds with variable interest rates as provided in the Supplemental Indenture authorizing such Junior Bonds.

"Junior Bonds" means all Bonds authenticated and delivered pursuant to Section 205 of this Indenture.

"Maintenance and Operation Account" means the Maintenance and Operation Account established in Section 502.

"Managing Underwriters" means the person or persons, firms or corporations designated in writing filed with the Authority and the Trustee by the person or persons, firms or corporations which shall purchase from the Authority any of the Bonds issued under the provisions of this Indenture and the successor or successors of such person or persons, firms or corporations as are defined in such writing.

"Municipal Bonds" means any obligations of any State, public corporation, authority, political subdivision, unit of local government or municipality of any State.

"Net Revenue Requirement" means, with respect to any period of time, an amount necessary to cure deficiencies, if any, in the Debt Service Account, the Debt Reserve Account, any Junior Bond Debt Service Account and any Junior Bond Debt Reserve Account plus the greater of (i) the sum of Aggregate Debt Service, the Junior Bond Revenue Requirement and the Renewal and Replacement Deposit for such period or (ii) 1.3 times the Aggregate Debt Service for such period.

"Net Revenues" means, for any Fiscal Year or other period of time, the Revenues, excluding amounts transferred during such Fiscal Year or period (i) to the Revenue Fund from the Construction Fund and (ii) to the Trustee by the Authority from the System Reserve Account, the Improvement Account or the Renewal and Replacement Account, less the Operating Expenses for such Fiscal Year or period.

"1985 Series Bonds" means the Toll Highway Refunding Revenue Bonds, 1985 Series authorized by Section 203.

"1986 Bonds" means the Authority's Toll Highway Priority Revenue Bonds, 1986 Series.

"1987 Bonds" means the Authority's Toll Highway Refunding Revenue Bonds, 1987 Series.

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"1992 Bonds" means the Authority's Toll Highway Priority Revenue Bonds, 1992 Series A.

"1993 Bonds" means the Authority's Toll Highway Refunding Revenue Bonds, 1993 Series A and 1993 Series B.

"Operating Expenses" means the Authority's expenses in the normal course of business for operation, maintenance and repairs of the Tollway System or any part of it and replacement and acquisition of equipment (other than expenses which under generally accepted accounting principles are capitalized and for which amounts (other than amounts held in the Maintenance and Operation Account) are set aside or otherwise available), including, without limitation, all policing, administrative and engineering expenses, legal and financial advisory expenses, fees and expenses of the fiduciaries, payments to pension, retirement, health and hospitalization funds, insurance premiums, rentals under leases of property not constituting Projects and any other expenses or obligations required to be paid by the Authority under the provisions of this Indenture or by law, all to the extent property and directly attributable to the operation of the Tollway System, but not including any costs or expenses of any Project, allowance for depreciation, payments on any Outstanding Bonds, Subordinated Indebtedness or money borrowed for purposes other than Operating Expenses, or any reserves for those purposes.

"Operating Reserve Sub-Account" means the sub-account of that name in the Maintenance and Operation Account established in Section 502.

"Operating Sub-Account" means the sub-account of that name in the Maintenance and Operation Account established in Section 502.

"Outstanding," when used with reference to Bonds, means, as of any date, all Bonds theretofore or thereupon being authenticated and delivered under this Indenture except:

- (i) Any Bonds canceled by the Trustee at or prior to such date;
- (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or date fixed for redemption, are held in trust under this Indenture and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as in Article IV provided or provision satisfactory to the Trustee shall have been made for the giving of such notice;
- (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 406 or 1106; and
- (iv) Bonds deemed to have been paid as provided in subsection 2 of Section 1201.

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"Paying Agent" means any bank, national banking association or trust company designated by the Authority as paying agent for the Bonds of any Series, and any successor or successors appointed by the Authority under this Indenture.

The term "principal" when used in connection with a Capital Appreciation Bond shall mean the initial principal amount of such Bond as of its date of issuance plus interest accreted thereon to the date of calculation, which in the aggregate shall constitute the maturity amount of such Capital Appreciation Bond as of the date of maturity thereof.

"Principal Installment" means, as of any particular date of calculation and with respect to any particular future date and with respect to Bonds of a particular Series, (a) the principal amount of Outstanding Bonds of said Series which are stated to mature on such future date, reduced by the aggregate principal amount of such Outstanding Bonds which would before said future date cease to be Outstanding by reason, but only by reason, of the payment when due, and application in accordance with this Indenture, of Sinking Fund Installments payable before said future date toward the retirement of such Outstanding Bonds, and (b) the amount of any Sinking Fund Installment payable on said future date toward the retirement of any Outstanding Bonds of said Series.

"Principal Sub-Account" means the sub-account of that name in the Debt Service Account established in Section 502.

"Priority Bonds" means all Bonds designated as Priority Bonds.

"Project" means any Improvement or Renewal and Replacement.

"Provider" means any person or entity providing Credit Enhancement, a Reserve Account Credit Facility or a Qualified Hedge Agreement with respect to any one or more Series of Senior Bonds, pursuant to agreement with or upon the request of the Authority.

"Provider Payment Sub-Account" means the sub-account of that name in the Debt Service Account established in Section 502.

"Qualified Hedge Agreement" means a Hedge Agreement which meets the tests of subsection 1 of Section 103.

"Rating" means a rating given Senior Bonds by a nationally-recognized rating agency upon the request or application of the Authority, and where the rating of any Senior Bonds based upon bond insurance or similar credit enhancement, it means the rating which those Senior Bonds would have without that bond insurance or credit enhancement.

"Record Date" means with respect to the 1985 Series Bonds, the fifteenth (15th) day (whether or not a Business Day) of the calendar month next preceding each interest payment date and, with respect to any other Series of Bonds, such other day as may be determined in the applicable Supplemental Indenture.

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"Redemption Price" means, with respect to any Bond, the principal amount thereof plus the applicable premium, if any, payable upon the date fixed for redemption.

"Redemption Sub-Account" means the sub-account of that name in the Debt Service Account established in Section 502.

"Refunding Bonds" means all Bonds designated as Refunding Bonds.

"Registrar" means any bank, national banking association or trust company appointed by the Authority under this Indenture and designated as registrar for the Bonds of any Series, and its successor or successors.

"Renewal and Replacement" means preservation, replacement, repairs, renewals and reconstruction or modification of the Tollway System or any part of it constituting real or personal property, whether leased or purchased, but does not include System Expansion Projects.

"Renewal and Replacement Deposit or Deposits" means, with respect to any period, any amount budgeted for deposit to or projected for deposit to the Renewal and Replacement Account for Renewal and Replacement Expenses, other than such budgeted or projected amounts which the Authority has determined will be available for Renewal and Replacement Expenses from the System Reserve Fund, the Improvement Fund or from the proceeds of authorized borrowings or from installment purchases or leases.

"Renewal and Replacement Expense or Expenses" means the cost of any Renewal and Replacement.

"Reserve Account Credit Facility" means a surety bond, an insurance policy, a letter of credit or other credit facility with respect to any Series of Senior Bonds which meets the requirements of Section 514.

"Revenue Fund" means the Revenue Fund established in Section 502.

"Revenues" means (i) all tolls, fees, charges, rents, and other income and receipts derived from the operation of the Tollway System, (ii) the proceeds of any use and occupancy insurance relating to the Tollway System and of any other insurance which insures against loss of revenues, (iii) investment income from any moneys or securities held in Funds, Accounts or Sub-Accounts established under this Indenture, other than the Construction Fund and (iv) amounts transferred from the Construction Fund to the Revenue Fund and transfers to the Trustee by the Authority from the System Reserve Account pursuant to subsection 1 of Section 512. Revenues excludes Federal and State grants and appropriations, loan proceeds, gifts or donations of any kind, transfers, if any, to the Authority as permitted under any Escrow Agreement and receipts not related to the Authority's performance of its obligations under this Indenture or to the operations of the Tollway System.

"Senior Bonds" means the Authority's Outstanding Priority Bonds, the Authority's Outstanding Refunding Bonds and all Additional Senior Bonds issued in accordance with Section 205 of this Indenture.

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"Series" means all of the Bonds designated as a series and authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 406 or 1106.

"Sinking Fund Installment" means each principal amount of Senior Bonds scheduled to be retired through the application of moneys on deposit in the Redemption Sub-Account established pursuant to clause (3)(h) of subsection 1, Section 202.

"Special Treasury Obligations" means United States Treasury Certificates of Indebtedness, Notes and Bonds - State and Local Government Series.

"Subordinated Indebtedness" means any evidence of indebtedness permitted to be issued by Section 513.

"Supplemental Indenture" means any Supplemental Indenture of the Authority authorized pursuant to Article X.

"System Expansion Project" means any acquisition, improvement, betterment, enlargement or capital addition which extends the Tollway System.

"System Reserve Account" means the System Reserve Account established in Section 502.

"Tollway System" means, collectively, (i) the toll highways operated and maintained by the Authority as of December 1, 1985, (ii) any Projects and (iii) all properties, equipment and facilities to the extent used in connection with the operation and maintenance of the facilities listed in clause (i) or (ii) of this definition.

"Traffic Engineers" means an engineer or engineering firm or corporation at the time retained by the Authority pursuant to Section 709 to perform the acts and carry out the duties provided for such Traffic Engineers in this Indenture.

"Treasurer" means the Treasurer of the State of Illinois and *ex officio* custodian of the "Illinois State Toll Highway Authority Fund", a special fund created under the Act, of which all Funds, Accounts and Sub-Accounts created under this Indenture, including the Revenue Fund and the Construction Fund, are a part.

"Trustee" means The First National Bank of Chicago and any successor or successors appointed under this Indenture as hereinafter provided.

Section 102. Miscellaneous Definitions. As used herein, words of the masculine gender shall be deemed and construed to include the correlative words of the feminine and neuter genders, and unless the context shall otherwise indicate, the words "Bond", "coupon", "owner", "Holder," and "person" shall include the plural as well as the singular number and the word "person" shall include corporations and associations, including public bodies, as well as natural persons.

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As used herein, the terms "herein," "hereunder," "hereby," "herein," "hereof," and any similar terms refer to this Indenture.

Unless the context shall otherwise indicate, references herein to articles, sections, subsections, clauses, paragraphs and other subdivisions refer to the designated articles, sections, subsections, clauses, paragraphs and other subdivisions of this Indenture as originally executed.

Section 103. Hedging Transactions.

1. A Hedge Agreement is a Qualified Hedge Agreement if (a) the Provider of the Hedge Agreement is rated "A" or better by Standard & Poor's Rating Group and (b) the Authority has given each rating agency then rating any of the Senior Bonds (whether or not such rating agency also rates the unsecured obligations of the Provider of the Hedge Agreement or the Provider's guarantor) at least fifteen (15) days' notice in writing of its intention to enter into the Hedge Agreement (unless such notice period is waived by such rating agency) and has received from such rating agency its written advice that the entering into of the Hedge Agreement by the Authority will not in and of itself cause a reduction or withdrawal by such rating agency of its Rating on any Senior Bonds. Such written advice shall constitute a waiver by that rating agency of the notice requirement of this subsection 1.

2. If the Authority shall enter into any Qualified Hedge Agreement with respect to any Senior Bonds and the Authority has made a determination that the Qualified Hedge Agreement was entered into to provide substitute amounts or limits of the interest due with respect to those Senior Bonds, then during the term of the Qualified Hedge Agreement and so long as the Provider of the Qualified Hedge Agreement is not in default:

(a) for purposes of any calculation of Debt Service, the interest rate on the Senior Bonds with respect to which the Qualified Hedge Agreement applies shall be determined as if such Senior Bonds had interest payments equal to the interest payable on those Senior Bonds less any payments to the Authority from the Provider and plus any payments by the Authority to the Provider as provided by the Qualified Hedge Agreement (other than fees or termination payments of such Provider for providing the Qualified Hedge Agreement);

(b) any such payments (other than fees and termination payments) required to be made by the Authority to the Provider pursuant to such Qualified Hedge Agreement may be made from amounts on deposit to the credit of the Interest Sub-Account; and

(c) any such payments received by the Authority from the Provider pursuant to such Qualified Hedge Agreement shall be deposited to the credit of the Interest Sub-Account.

3. If the Authority shall enter into a Hedge Agreement that is not a Qualified Hedge Agreement, then:

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(a) the interest rate adjustments or assumptions referred to in clause (a) of subsection 2 shall not be made;

(b) any payments required to be made by the Authority to the Provider pursuant to such Hedge Agreement shall be made only from amounts on deposit to the credit of the System Reserve Account; and

(c) any payments received by the Authority from the Provider pursuant to such Hedge Agreement shall be treated as Revenues and shall be deposited to the credit of the Revenue Fund.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

Section 201. Authorization of Bonds.

1. The Authority shall not issue any Bonds while this Indenture is in effect except in accordance with the provisions of this Article II. All Priority Bonds and Refunding Bonds issued under this Indenture prior to the effectiveness of the amendments set forth in Section 2.1 of the 1996 Amending Supplemental Indenture were designated "Toll Highway Priority Revenue Bonds" or "Toll Highway Refunding Revenue Bonds," as provided in the Supplemental Indenture which authorized their issuance. All Senior Bonds issued after the effectiveness of the amendments set forth in Section 2.1 of the 1996 Amending Supplemental Indenture and prior to the effectiveness of the amendments set forth in Section 3.1 of the 1996 Amending Supplemental Indenture shall be designated "Toll Highway Senior Priority Revenue Bonds" or "Toll Highway Senior Refunding Revenue Bonds," and shall include such further appropriate designations as the Authority may determine. The designation of Priority or Refunding need not be set forth in the form of such a Bond. After the effectiveness of the amendments made by Section 3.1 of the 1996 Amending Supplemental Indenture all such Senior Bonds shall be designated "Toll Highway Senior Revenue Bonds." All Junior Bonds issued pursuant to the terms of this Indenture shall be designated as provided in the applicable Supplemental Indenture authorizing the issuance of such Junior Bonds.

2. Bonds may be issued in one or more Series of Bonds. Each Bond shall bear upon its face the designation for its Series. Any two or more Series may be consolidated for purposes of sale in such manner as may be provided by the Supplemental Indenture authorizing their issuance.

Section 202. General Provisions for Issuance of Bonds.

1. Bonds of each Series shall be executed by the Authority and delivered to the Trustee and authenticated by the Trustee and delivered to the Authority or upon its order, but only upon the receipt by the Trustee, at or prior to such authentication, of:

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(1) A Counsel's Opinion to the effect that (i) the Authority has the right and power under the Act, as amended to the date of the Opinion, to authorize the execution and delivery of this Indenture or the Supplemental Indenture, if any, as the case may be, authorizing such Bonds, and this Indenture or such Supplemental Indenture, if any, as the case may be, has been duly and lawfully authorized, executed and delivered by the Authority, is in full force and effect and is valid and binding upon the Authority and enforceable in accordance with its terms; (ii) this Indenture or the Supplemental Indenture, if any, as the case may be, providing for the issuance of the Series of Bonds creates the valid pledge and lien which it purports to create on and in the Revenues, moneys, securities and funds held or set aside under this Indenture or such Supplemental Indenture, if any, as the case may be; (iii) the Bonds of such Series are valid and binding obligations of the Authority as provided in this Indenture or the Supplemental Indenture, if any, as the case may be, providing for their issuance, enforceable in accordance with its terms and the terms of this Indenture or such Supplemental Indenture, if any, as the case may be, and entitled to the benefits of this Indenture or such Supplemental Indenture, if any, as the case may be, and the Act, and (iv) such Bonds have been duly and validly authorized and issued in accordance with the Act and this Indenture or such Supplemental Indenture, if any, as the case may be;

(2) A written order as to the delivery of such Bonds signed by an Authorized Officer, which order shall direct, among other things, the application of the proceeds of such Bonds;

(3) A copy of the Supplemental Indenture and the resolution authorizing the Series of Bonds, so certified, which shall specify:

- (a) The authorized principal amount, designation and Series of such Bonds;
- (b) The purposes for which such Series of Bonds is being issued;
- (c) The date, and the maturity date or dates, of the Bonds of such Series which may be any dates as the Supplemental Indenture may provide;
- (d) The interest rate or rates of the Bonds of such Series, or the manner of determining such rate or rates, and the interest payment dates (which may be any dates as the Supplemental Indenture may provide) and any Record Date;
- (e) The denominations and the manner of dating, numbering and lettering of the Bonds of such Series;
- (f) The Registrar and the Paying Agent or Paying Agents for the Bonds of such Series;
- (g) The Redemption Price or Prices, if any, and any redemption dates and terms for the Bonds of such Series not determined herein; and

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(h) The amount and date of each Sinking Fund Installment, if any, for Bonds of like maturity of such Series, provided that the aggregate of such Sinking Fund Installments shall equal the aggregate principal amount of all such Bonds less the principal amount scheduled to be retired at maturity.

(4) The amount, if any, necessary for deposit in the Debt Reserve Account so that the amount in the Debt Reserve Account equals the Debt Reserve Requirement calculated immediately upon such authentication and delivery;

(5) Except in the case of Bonds issued to refund Outstanding Bonds, a certificate of an Authorized Officer stating that the Authority is not in default in the performance of any of the covenants, conditions, agreements, or provisions contained in this Indenture; and

(6) Such further documents, moneys and securities as are required by the provisions of this Indenture or any Supplemental Indenture.

2. Bonds of the same Series and maturity shall be of like tenor except as to denomination and form. After the original issuance of Bonds of a Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 406 or Section 1106.

3. A Supplemental Indenture may authorize Bonds of a Series to be issued in book-entry form and may provide that consents, directions and other actions by the Holder of such Bonds may be made by a registered owner which is the nominee of a book-entry depository on behalf of all or any specified portions of Bonds so held.

Section 203. 1985 Series Bonds.

1. A Series of Bonds entitled to the benefit, protection and security of this Indenture is hereby authorized in the aggregate principal amount of \$167,200,000, for the purpose of raising moneys to advance refund the 1985 Bonds, to pay costs of issuance in connection with the issuance of the 1985 Series Bonds and to provide for the funding of the Debt Reserve Account. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series, by the title "Toll Highway Refunding Revenue Bonds, 1985 Series."

2. The 1985 Series Bonds shall be in registered form and shall be initially dated December 1, 1985 and thereafter shall be dated in accordance with the provisions of Section 301 hereof. All 1985 Series Bonds shall bear interest payable on July 1, 1986 and semiannually thereafter on January 1 and July 1 in each year.

3. The 1985 Series Bonds shall mature on January 1 of each of the years and in the principal amounts and shall bear interest at the respective rates per annum set forth in the table below:

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Year	Principal Amount	Rate Per Annum
1987		6.10%
1988	\$ 2,760,000	6.60
1989	2,925,000	7.10
1990	3,120,000	7.30
1991	3,340,000	7.50
1992	3,585,000	7.70
1993	3,855,000	7.90
1994	4,150,000	8.00
1995	4,480,000	8.15
1996	4,835,000	8.30
1997	5,230,000	8.40
1998	5,665,000	8.55
1999	6,140,000	8.65
2000	6,665,000	8.75
2005	7,245,000	9.125
2009	47,255,000	9.25
	55,950,000	

4. The 1985 Series Bonds shall be in denominations of \$5,000 or any integral multiples of \$5,000 (but no single 1985 Series Bond shall represent principal maturing on more than one date) and shall be numbered consecutively but need not be authenticated or delivered in consecutive order. The 1985 Series Bonds and the Trustee's Certificate of Authentication shall be in substantially the form set forth in Exhibit A attached hereto and by reference made a part hereof with such variations, omissions or insertions as are required or permitted by this Indenture.

5. The principal and Redemption Price of the 1985 Series Bonds shall be payable at the designated corporate trust offices of the Trustee, in the City of Chicago, Illinois, as Paying Agent, and at such offices of any co-Paying Agent or successor Paying Agent or Paying Agents appointed pursuant to this Indenture for the 1985 Series Bonds. Interest on the 1985 Series Bonds shall be payable by check or bank draft mailed or delivered by the Trustee to the registered owners as the same appear on the registry books of the Authority maintained by the Registrar as of the Record Date.

Section 204. Additional Senior Bonds.

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1. One or more Series of Additional Senior Bonds may be authorized and delivered for any of the following purposes: (a) paying the Costs of Construction of any Project; (b) refunding or prepaying, including at or prior to maturity (i) any Senior Bonds or (ii) any other obligations of the Authority issued or entered into for purposes for which Senior Bonds may be issued, including paying related costs of issuance, costs of redemption of refunded bonds, capitalized interest, Costs of Credit Enhancement or Costs of Hedge Agreements; (c) making deposits to the Debt Reserve Account or acquiring a Reserve Account Credit Facility; (d) paying interest on any Bond; (e) paying any costs of issuing Senior Bonds; or (f) paying Costs of Credit Enhancement or Costs of Qualified Hedge Agreements for the Additional Senior Bonds. The Additional Senior Bonds shall be authenticated and delivered by the Trustee only upon receipt by it (in addition to the documents, securities and moneys required by Section 202) of the following:

(1) A certificate of an Authorized Officer demonstrating that the Net Revenues as reflected in the books of the Authority for a period of 12 consecutive calendar months out of the 18 calendar months next preceding the authentication and delivery of the Additional Senior Bonds exceeded the Net Revenue Requirement for that 12-month period; provided that if any adjustment of toll rates shall have been placed in effect during that 12-month period, Net Revenues shall reflect the Revenues which the Traffic Engineers estimate in their certificate delivered pursuant to clause (3) of this subsection would have resulted had such toll rate adjustment been in effect for the entire 12-month period;

(2) A certificate of the Traffic Engineers stating whether, to the best of their knowledge, any Federal, State or other agency has begun, or is then projecting or planning, the construction, improvement or acquisition of any highway or other facility which, in the opinion of the Traffic Engineers, may be materially competitive with any part of the Tollway System, and the estimated date of completion of such construction, improvement or acquisition;

(3) A certificate of the Traffic Engineers setting forth estimates of toll receipts for the then current and each future Fiscal Year to and including the fifth full Fiscal Year after the estimated date when the Projects being financed by such Additional Senior Bonds will be placed in service, and in any case, to and including the fifth full Fiscal Year after the date of issuance of such Additional Senior Bonds. The estimates shall give effect to (i) the completion as estimated of any Project not yet completed, (ii) the assumption that any competitive highway or other facility referred to in their certificate delivered pursuant to clause (2) of this subsection will be completed on the date so estimated as provided in clause (2) and will subsequently be in operation during the period covered by such estimates, (iii) any adjustment of toll rates which shall have been placed in effect subsequent to the beginning of the 12-month period referred to in the certificate of an Authorized Officer delivered pursuant to clause (1) of this subsection, as if such toll rate adjustment had been in effect from the beginning of the period covered by such estimate until the effective date of any subsequent adjustment presumed necessary and (iv) any adjustment of toll rates which, in the opinion of the Traffic Engineers, would be necessary to comply with the provisions of Section 713, as if such adjustment were to be in effect from its effective date to the effective date of any other such adjustment;

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(4) A certificate of the Consulting Engineers setting forth (i) for the years and on the assumptions specified in the certificate of the Traffic Engineers delivered pursuant to clause (3) of this subsection, estimates of the Operating Expenses and Renewal and Replacement Deposits, giving effect to the completion of any Project not yet completed on the date estimated by the Consulting Engineers, (ii) the estimated total Cost of Construction of each Project for which the Additional Senior Bonds are to be issued, and (iii) the estimated date of completion of each such Project;

(5) A certificate of an Authorized Officer setting forth the estimated Net Revenues (based on the certificates delivered pursuant to clauses (3) and (4) of this subsection) for the current and each future Fiscal Year through the fifth full Fiscal Year after the estimated date when each Project for which Additional Senior Bonds are being issued will be placed into service, and in any case, to and including the fifth full Fiscal Year after the date of issuance of such Additional Senior Bonds, and stating that (i) such estimated Net Revenues for each such Fiscal Year equal or exceed the estimated Net Revenue Requirement for such Fiscal Year, and (ii) except as provided in clause (6) below, if the Additional Senior Bonds are being issued to pay Costs of Construction of a Project, that the amount of proceeds of the proposed Additional Senior Bonds, which may be issued in one or more Series, together with any other funds then available or expected to be available, will be sufficient to pay the remainder of the Cost of Construction of such Project as scheduled.

(6) In the case of any Additional Senior Bonds issued to pay Costs of Construction of any Project which is to be only partially funded by the issuance of that Series of Additional Senior Bonds, with the balance of the Project to be funded by the issuance of one or more subsequent Series of Additional Senior Bonds, the test set forth in sub-clause (ii) of clause (5) may be satisfied at the outset on the basis of the aggregate of all Series of Additional Senior Bonds to be issued to finance the Project. In that event, the Authority need not satisfy the test set forth in sub-clause (ii) of clause (5) at the time any such Series of Additional Senior Bonds for the Project is to be issued.

(7) In the case of any Series of Additional Senior Bonds issued for paying of costs to complete any Project for which Senior Bonds have previously been issued then the requirement of clauses (1) through (6) of this subsection need not be met if there is received by the Trustee a Certificate of the Consulting Engineers stating (i) the purpose for which the Additional Senior Bonds are to be issued, which shall be to complete a Project for which Senior Bonds have been issued, without any material change in scope (ii) that the amount of available proceeds of the Additional Senior Bonds, together with other funds of the Authority then available or expected to be available for completing the Project, including proceeds of one or more Series of Additional Bonds to be issued for that purpose, will be sufficient, in their opinion, to pay the cost of completion of the Project and (iii) that the amount of proceeds of such Additional Senior Bonds available for completing the Project will not exceed ten percent (10%) of the total estimated Costs of Construction as provided in the Certificate of the Consulting Engineers provided for the Additional Senior Bonds previously issued with respect to that Project.

(8) In the case of any Series of Additional Senior Bonds issued for purposes of refunding Outstanding Senior Bonds (including paying related Costs of issuance, deposits to the Debt

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Reserve Account, capitalized interest or Costs of Credit Enhancement or Costs of Qualified Hedge Agreements for the Additional Senior Bonds) the requirements of clauses (1) through (6) of this subsection need not be met if there is received by the Trustee (i) a Counsel's Opinion that upon issuance of the Additional Senior Bonds and application of their proceeds as provided in the authorizing Supplemental Indenture, provision for payment of the refunded Senior Bonds will have been made in accordance with Section 1201; and (ii) the certificate of an Authorized Officer demonstrating (A) for each Fiscal Year in which any Senior Bonds (other than the Additional Senior Bonds to be issued) will be Outstanding after the refunding, that the Debt Service for the Additional Senior Bonds to be issued will not be greater than one hundred five percent (105%) of the Debt Service for the Senior Bonds to be refunded and (B) that the aggregate Principal Installments and interest payable in all those Fiscal Years on the Additional Senior Bonds to be issued is less than the aggregate Principal Installments and interest that would have been payable on the Senior Bonds to be refunded, assuming all Sinking Fund Installments are made as provided in the Supplemental Indentures for Senior Bonds.

2. The proceeds, including accrued interest, of Additional Senior Bonds of each Series shall be applied simultaneously with their delivery as follows:

(1) There shall be deposited in the Debt Reserve Account the amount, if any, necessary so that the amount in that Account equals the Debt Reserve Requirement calculated immediately after such delivery, to the extent not funded from any other source; and

(2) There shall be deposited in any other Fund, Account or Sub-Account under this Indenture or any Supplemental Indenture and in any fund or account to provide for the payment or defeasance of any obligation refunded by the Additional Senior Bonds, if any, the amount required or provided by the Supplemental Indenture providing for the issuance of such Additional Senior Bonds.

Section 205. Junior Bonds.

1. One or more Series of Junior Bonds may be issued as authorized by the Authority by a Supplemental Indenture for any purpose for which Senior Bonds may be issued.

2. Any Supplemental Indenture providing for the issuance of any Series of Junior Bonds shall make provision for the establishment of any Junior Bond Debt Service Account or Accounts and any Junior Bond Debt Reserve Account with respect to any or all Series of Junior Bonds and for the amounts of Net Revenues to be deposited in such Accounts (as provided in Section 504). Any such Supplemental Indenture may grant a lien on and pledge for the payment of principal of and interest on Junior Bonds or reimbursing Providers of Credit Enhancement or Hedge Agreements for Junior Bonds for amounts applied by such Provider to pay such principal or interest, of the (i) Net Revenues to be deposited in any Junior Bond Debt Service Account or Junior Bond Debt Reserve Account as provided in Section 504; (ii) amounts on deposit from time to time in Junior Bond Debt Service Accounts and Junior Bond Debt Reserve Accounts; (iii) amounts on deposit from time to time in the Renewal and Replacement Account, the Improvement Account and the System Reserve Account; and (iv) any other funds, accounts, property or receipts other than Revenues or Funds or Accounts established by this Indenture or a Supplemental Indenture solely for the benefit of Senior Bonds. Any

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such pledge or lien on Net Revenues and amounts on deposit from time to time in the Renewal and Replacement Account, the Improvement Account and the System Reserve Account shall be subordinate to the pledge and lien made and granted by Section 501 of this Indenture for Senior Bonds. A Supplemental Indenture providing for the issuance of any series of Junior Bonds may provide for "events of default" with respect to such Junior Bonds and remedies arising from such "events of default." Such a remedy may include acceleration of the maturity of any Junior Bonds, but only upon not less than sixty days written notice to the Trustee. No remedy shall be contrary to the rights or remedies provided to Holders of Senior Bonds under this Indenture.

ARTICLE III

GENERAL TERMS AND PROVISIONS OF BONDS

Section 301. Obligation of Bonds; Medium of Payment; Form and Date; Letters and Numbers.

1. The Bonds shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.
2. Any Bonds of a Series may be issued in the form of coupon Bonds, in the form of fully registered Bonds without coupons or, pursuant to the provisions of a Supplemental Indenture, in any other form permitted by law at the time of original issuance, including, but not limited to, Bonds which are transferable through a book entry system. The Authority shall not be required to issue coupon Bonds, or exchange coupon Bonds for registered Bonds, if issuance of coupon Bonds or exchange for coupon Bonds might cause the interest on any Bonds to be subject to Federal income taxation.
3. Each Bond shall be lettered and numbered as provided in this Indenture or the Supplemental Indenture authorizing the Series of which such Bond is a part and so as to be distinguished from every other Bond.

4. Bonds shall be dated as provided in this Indenture or the Supplemental Indenture authorizing the Bonds of such Series. 1985 Series Bonds authenticated and delivered prior to July 1, 1986 shall be dated December 1, 1985. 1985 Series Bonds authenticated and delivered on or after July 1, 1986 shall be dated January 1 or July 1 preceding the date of their authentication and delivery to which interest has been paid or duly provided for, except 1985 Series Bonds authenticated and delivered on a January 1 or July 1 to which interest has been paid or duly provided shall be dated that January 1 or July 1.

Section 302. Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Indenture as may be necessary or desirable to comply with custom, law, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Authority or the Trustee prior to the authentication and delivery thereof.

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Section 303. Execution and Authentication.

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signatures of its Chairman and Secretary, and its corporate seal (or a facsimile of it) shall be impressed, imprinted, engraved or otherwise reproduced on them. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as provided in this Indenture, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Authority by such persons who at the time of the execution of such Bond shall hold the proper office in the Authority, although at the date of such Bond such persons may not have been so authorized or have held such office.

2. The Bonds shall bear a certificate of authentication, in the form set forth in this Indenture or the Supplemental Indenture authorizing such Bonds, executed manually by the Trustee. Only such Bonds as shall bear such certificate of authentication shall be entitled to any right or benefit under this Indenture, and no such Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any such Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Indenture and that the Holder is entitled to the benefits of this Indenture.

Section 304. Negotiability, Transfer and Registry.

1. Title to any coupon Bond, and to any coupons, shall pass by delivery as negotiable instruments payable to bearer.
2. Each registered Bond shall be transferable only upon the registry books of the Authority, which shall be kept for the purpose by the Registrar, by the registered owner in person or by his attorney duly authorized in writing, upon surrender thereof with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such registered Bond, the Authority shall issue in the name of the transferee a new registered Bond or Bonds or, at the option of the transferee, to the extent permitted by law and by this Indenture, coupon Bonds, with appropriate coupons attached, of the same aggregate principal amount, Series and maturity as the surrendered Bond.
3. The Authority and each Fiduciary may deem and treat the person in whose name any registered Bond shall be registered upon the registry books of the Authority as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary. The Authority agrees to indemnify and save each Fiduciary harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence under this Indenture, in so treating such registered owner.

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Section 305. Provisions With Respect to Exchanges and Transfers. In all cases in which the privilege of exchanging Bonds or transferring registered Bonds is exercised, the Authority shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Indenture. All Bonds and coupons surrendered in any such exchanges shall forthwith be canceled by the Trustee. For any exchange or transfer of Bonds, whether temporary or definitive, the Authority, the Trustee or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid. The Registrar and the Trustee shall not be required to make any registration, transfer or exchange of any Bond during the period between each Record Date and the next succeeding interest payment date of such Bond, or after such Bond has been called for redemption or, in the case of any proposed redemption of Bonds, during the fifteen (15) days next preceding the date of first giving of notice of such redemption.

Section 306. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Authority shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond (with appropriate coupons attached in the case of coupon Bonds) of like Series, maturity and principal amount as the Bonds and attached coupons, if any, so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond and attached coupons, if any, or in lieu of and substitution for the Bond and coupons, if any, destroyed, stolen or lost, upon filing with the Trustee or Registrar evidence satisfactory to the Authority and the Trustee or Registrar that such Bond and attached coupons, if any, have been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority and the Trustee or Registrar with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority, the Trustee or Registrar may prescribe and paying such expenses as the Authority and Trustee and Registrar may incur. All Bonds and coupons so surrendered to the Trustee or Registrar shall be canceled by the Trustee in accordance with Section 1205. Any such new Bonds or coupons issued pursuant to this Section in substitution for Bonds or coupons alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds and coupons so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, shall be entitled to equal and proportionate benefits with all other Bonds and coupons of the same Series issued under this Indenture and shall be equally secured by the moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

Section 307. Temporary Bonds.

1. Until the definitive Bonds of any Series are prepared, the Authority may execute, in the same manner as is provided in Section 303, and, upon the request of the Authority, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds except as to the denominations thereof and as to exchangeability, one or more temporary Bonds (which may be registrable as to principal and interest) substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, but with or without coupons, in denominations of \$5,000 or any integral multiples thereof authorized by the Authority, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The installments of interest payable on such temporary Bonds in bearer form shall be payable only upon the presentation and surrender of the coupons therefor attached thereto or upon presentation of such temporary Bonds for notation of the payment of such

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interest. The Authority at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds with all unmatured coupons and all matured coupons for which no payment or only partial payment has been provided, attached, the Trustee shall authenticate and, without charge to the Holder thereof, deliver in exchange therefor, definitive Bonds, of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Indenture.

2. If the Authority shall authorize the issuance of temporary Bonds in more than one denomination, the Holder of any temporary Bond or Bonds may, at his option, surrender the same to the Trustee in exchange for another temporary Bond or Bonds of like aggregate principal amount, Series and maturity of any other authorized denomination or denominations, and thereupon the Authority shall execute and the Trustee shall authenticate and, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes, fees and charges provided for in Section 305, shall deliver a temporary Bond or Bonds of like aggregate principal amount, Series and maturity in such other authorized denomination or denominations as shall be requested by such Holder.

3. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

ARTICLE IV

REDEMPTION OF BONDS

Section 401. Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity pursuant to this Indenture or a Supplemental Indenture shall be redeemable, upon notice given as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in Article IV as may be specified in this Indenture or in the Supplemental Indenture authorizing such Series.

Section 402. Redemption at the Election or Direction of the Authority. In the case of any redemption of Bonds at the election or direction of the Authority, the Authority shall give written notice to the Trustee of its election or direction so to redeem, of the date fixed for redemption, of the Series, and of the principal amounts of the Bonds of each maturity of such Series to be redeemed. Such notice shall be given at least 45 days prior to the specified redemption date or such shorter period as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as in Section 405 provided, there shall be paid prior to the specified redemption date to the Trustee an amount in cash or Investment Securities maturing on or before the specified redemption date which, together with other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem all of the Bonds to be redeemed on the specified redemption date at their Redemption Price plus interest accrued and unpaid to the date fixed for redemption; such amount and moneys shall be held in a separate, segregated account for the benefit of the Holders of the Bonds so called for redemption.

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Section 403. Redemption Otherwise Than at Authority's Election or Direction. Whenever by the terms of this Indenture the Trustee is required or authorized to redeem Bonds otherwise than at the execution or direction of the Authority, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and pay the Redemption Price thereof, plus interest accrued and unpaid to the date fixed for redemption, in accordance with the terms of Articles IV and V to the extent applicable.

Section 404. Selection of Bonds to be Redeemed. Unless otherwise provided by Supplemental Indenture, if less than all of the Bonds of like maturity of any Series shall be called for prior redemption, the particular Bonds or portion of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by \$5,000.

Section 405. Notice of Redemption. When the Trustee shall receive notice from the Authority of its election or direction to redeem Bonds pursuant to Section 402, and when redemption of Bonds is authorized or required pursuant to Section 403, the Trustee shall give notice, in the name of the Authority, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the date fixed for redemption and the place or places where amounts due upon such date fixed for redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable the Redemption Price of each Bond to be redeemed, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the date fixed for redemption, and that from and after such date interest thereon shall cease to accrue and be payable. Notice of the redemption of coupon Bonds shall be given by publication once in an Authorized Newspaper, not less than 30 days prior to the date fixed for redemption. The Trustee shall mail copies of such notice by registered or certified mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owners of the Bonds to be redeemed at their addresses as shown on the registry books of the Authority, maintained by the Registrar. If the Trustee publishes or mails notices of redemption as herein provided, notice shall be conclusively presumed to have been given to all Bondholders.

Section 406. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 405, the Bonds or portions thereof so called for redemption shall become due and payable on the date fixed for redemption at the Redemption Price, plus interest accrued and unpaid to such date, and, upon presentation and surrender thereof at any place specified in such notice, together, in the case of coupon Bonds, with all appurtenant coupons maturing subsequent to the date fixed for redemption, such Bonds, or portions thereof, shall be paid at the Redemption Price, plus interest accrued and unpaid to such date. All interest installments represented by coupons which shall have matured on or prior to the date fixed for redemption shall continue to be payable to the bearers of such coupons. If there shall be called for redemption less than all of a Bond, the Authority shall execute and the Trustee shall authenticate and the appropriate

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Fiduciary shall deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, at the option of the owner thereof, to the extent permitted by law and this Indenture, either coupon Bonds or registered Bonds of like Series and maturity in any authorized denominations. If, on the date fixed for redemption, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to such date, shall be held by the Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the date fixed for redemption, interest on the Bonds or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable, and the coupons for interest appertaining thereto maturing subsequent to the date fixed for redemption shall be void. If said moneys shall not be so available on the date fixed for redemption, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Section 407. Optional Redemption of 1985 Series Bonds. The 1985 Series Bonds maturing on or after January 1, 1997 are subject to redemption at the election or direction of the Authority prior to maturity on or after January 1, 1996, in whole at any time or in part in any order of maturity designated by the Authority on any interest payment date, in integral multiples of \$5,000, at the Redemption Prices (expressed as percentages of aggregate principal amount) set forth in the table below, plus accrued interest thereon to the date fixed for redemption:

Redemption Dates (Dates Inclusive)	Redemption Prices
January 1, 1996 through December 31, 1996	102.0%
January 1, 1997 through December 31, 1997	101.5%
January 1, 1998 through December 31, 1998	101.0%
January 1, 1999 through December 31, 1999	100.5%
January 1, 2000 and thereafter	100.0%

Section 408. Redemption Pursuant to Sinking Fund Installments. The 1985 Series Bonds are also subject to redemption prior to maturity at a Redemption Price equal to the principal amount thereof, by application by the Trustee in accordance with Section 507 of funds on deposit to the credit of the Redemption Sub-Account. Subject to the availability of funds for transfer from the Revenue Fund under clause (3) of subsection 2 of Section 504 and from the Debt Reserve Account under Section 508, deposits to be applied to Sinking Fund Installments shall be made during each Fiscal Year into the Redemption Sub-Account in amounts which will make possible the retirement, by purchase during the Fiscal Year or by redemption on the first day of the following Fiscal Year, of 1985 Series Bonds of each maturity in the aggregate principal amounts set forth in the following table opposite each such following Fiscal Year, as adjusted pursuant to Section 507:

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1985 Series Bonds due January 1, 2005:

<u>Fiscal Year</u>	<u>Amount</u>
2001	\$ 7,875,000
2002	8,595,000
2003	9,380,000
2004	10,235,000

1985 Series Bonds due January 1, 2009:

<u>Fiscal Year</u>	<u>Amount</u>
2006	\$12,190,000
2007	13,315,000
2008	14,550,000

ARTICLE V

REVENUES AND ESTABLISHMENT AND APPLICATION OF FUNDS

Section 501. The Pledge and Lien Effected by this Indenture.

1. There are pledged for the payment of the principal and Redemption Price of, and interest on, the Senior Bonds in accordance with their terms and the provisions of this Indenture, and a lien is granted for such purpose, subject only to the provisions of this Indenture permitting or requiring the application for the purposes and on the terms and conditions set forth in this Indenture, (i) the Net Revenues, (ii) amounts on deposit in all Funds, Accounts and Sub-Accounts, except amounts on deposit in or required to be deposited in the Maintenance and Operation Account established by this Indenture and except for amounts held from time to time in any Junior Bond Debt Service Accounts, and any Junior Bond Debt Reserve Accounts established pursuant to the Supplemental Indentures authorizing any Junior Bonds issued under Section 205, and (iii) any and all other moneys, securities and property furnished from time to time to the Trustee by the Authority or on behalf of the Authority or by any other persons to be held by the Trustee under the terms of this Indenture (except such amounts to be held solely for the benefit of Junior Bonds). The pledge and lien created by this Indenture secure Senior Bonds on an equal and ratable basis and are superior in all respects to any pledge and lien created by any Supplemental Indenture for Junior Bonds.

2. For purposes of the pledge and lien granted by this Section and the requirement for deposits in and use of amounts in the Debt Service Account, the payment of principal of, premium, if any, and interest on Senior Bonds may include reimbursing Providers of Credit Enhancement or Qualified Hedge Agreements for Senior Bonds for amounts applied by such Providers to pay such principal, premium or interest, but

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amounts in the Debt Service Account may be so applied only if and to the extent after such application there is no deficiency in the Debt Service Account.

3. The Net Revenues and the other moneys and securities pledged shall immediately be subject to the lien and pledge without any physical delivery or further act, and the lien and pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice of the pledge and lien.

4. The Bonds do not represent or constitute a debt of the Authority or of the State of Illinois within the meaning of any constitutional or any statutory limitation or a pledge of the faith and credit of the Authority or the State of Illinois or grant to their Holders any right to have the Authority or the General Assembly of the State of Illinois levy any taxes or appropriate any funds for the payment of the principal of, premium, if any, or interest on the Bonds. The Bonds are payable solely from the revenues and sources authorized under the Act and pledged for their payment in accordance with this Indenture and any Supplemental Indenture.

Section 502. Establishment of Revenue Fund and Accounts. The Revenue Fund and the following Accounts and Sub-Accounts within the Revenue Fund are established:

1. Maintenance and Operation Account, consisting of the Operating Sub-Account and the Operating Reserve Sub-Account, to be held by the Authority,
2. Debt Service Account, consisting of the Interest Sub-Account, the Principal Sub-Account, the Redemption Sub-Account and the Provider Payment Sub-Account, to be held by the Trustee,
3. Debt Reserve Account, to be held by the Trustee,
4. Renewal and Replacement Account, to be held by the Authority,
5. Improvement Account, to be held by the Authority, and
6. System Reserve Account, to be held by the Authority.

In addition, the Authority may establish by any Supplemental Indenture providing for Junior Bonds under Section 205, any one or more Junior Bond Debt Service Accounts and Junior Bond Debt Reserve Accounts.

Section 503. Establishment of Construction Fund.

1. The Construction Fund is established with the Treasurer as *ex officio* custodian, which Construction Fund shall be held as a separate, segregated fund within the Illinois State Toll Highway Authority Fund. There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of this Indenture and any Supplemental Indenture, and there may be paid into the Construction Fund, at the

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option of the Authority, any moneys received by the Authority for or in connection with the Tollway System otherwise than pursuant to such provisions.

2. The Treasurer shall establish and maintain within the Construction Fund a separate, segregated account for each Project the costs of which are to be paid in whole or in part out of the Construction Fund. The Treasurer may deposit any such separate, segregated account within the Construction Fund with the Trustee, pursuant to the provisions of a Supplemental Indenture.

3. Amounts in each separate, segregated account established for a Project shall be applied to the purpose or purposes and in the manner specified in this Indenture or the Supplemental Indenture authorizing the Bonds issued to finance such Project and upon the written direction of the Authority.

4. Moneys in the Construction Fund shall be invested at the direction of the Authority to the fullest extent practicable in Investment Securities maturing in such amounts and at such times as may be necessary to provide funds when needed to pay Costs of Construction or such other costs as may be required to be paid from such moneys. The Treasurer (or the Trustee in the event that the Trustee holds any such separate, segregated account within the Construction Fund) may, and to the extent required for payments from the Construction Fund shall, sell any such Investment Securities at any time, and the proceeds of such sale, and of all payments at maturity and upon redemption of such investments, shall be held in the applicable account in the Construction Fund. Earnings received on moneys or securities in a separate account in the Construction Fund shall be held as a part of such account and available for the purposes for which moneys in such account are otherwise held.

5. The completion, substantial completion or abandonment of construction of any Project to be paid for from the Construction Fund shall be evidenced by a resolution of the Authority, supported by a certificate of the Consulting Engineers, which shall be filed promptly with the Treasurer and the Trustee, stating the date of such completion, anticipated completion or abandonment and the amount, if any, required in the opinion of the signer of such certificate for the payment of any remaining part of the Cost of Construction of such Project. Upon the filing of such resolution and supporting certificate, the balance in the separate, segregated account in the Construction Fund established for that purpose and its revolving fund, if any (described below), in excess of the amount, if any, stated in such resolution shall be withdrawn by the Treasurer (or transferred to the Treasurer by the Trustee in the event that the Trustee holds such separate, segregated account) and applied as Revenues pursuant to Section 504.

6. In addition, the Treasurer shall, upon a direction of the Authority signed by an Authorized Officer, at one time or from time to time pay to the Authority from the separate, segregated account established for each Project a sum or sums aggregating an amount not to exceed the amount, if any, specified in the Supplemental Indenture authorizing the Bonds issued to finance such Project, exclusive of reimbursement from time to time for moneys expended for the cost of such Project, such sum or sums to be used as a revolving account for the payment of costs of such Project, which cannot otherwise be conveniently paid. Such revolving account shall be reimbursed by the Treasurer from time to time for costs of such Project so paid by payments from the separate, segregated account established for such Project upon a direction of the Authority signed by an Authorized Officer.

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Section 504. Revenue Fund.

1. All Revenues received by the Authority, other than investment income from any moneys and securities held in Funds, Accounts and Sub-Accounts, unless otherwise directed by this Indenture, shall be delivered by the Authority to the Treasurer, for deposit in the Revenue Fund with one or more Depositories to be selected by the Treasurer, not more than five (5) Business Days after receipt by the Authority; provided, however, that amounts advanced by the Authority to the State of Illinois Department of Transportation or any other person from the Construction Fund, the Renewal and Replacement Account, the Improvement Account or the System Reserve Account pursuant to an agreement or understanding, formal or informal, that requires or contemplates the repayment to the Authority of all or any portion of the amounts so advanced may, upon the Authority's receipt of such repayment, be deposited directly into the Fund or Account from which such advance was made, whether or not the amounts so repaid might constitute Revenues.

2. On or before the 20th day of each month the Treasurer shall, at the direction of the Authority, transfer or apply the balance as of such date of transfer in the Revenue Fund not previously transferred or applied as follows and in the following order of priority:

(1) To the credit of the Operating Sub-Account that portion of the Operating Expenses set forth in the Annual Budget for the then current Fiscal Year which would have accrued on a pro rata basis to the end of the current calendar month if deemed to accrue monthly on a pro rata basis from the first day of the then current Fiscal Year, less all other amounts previously transferred by the Treasurer for deposit to the credit of the Operating Sub-Account during that Fiscal Year and less the balance, if any, which was on deposit to the credit of the Operating Sub-Account on December 31 of the preceding Fiscal Year.

(2) To the credit of the Operating Reserve Sub-Account the amount, if any, as shall be specified by the Authority; provided however, that such amount specified by the Authority shall be reduced by the amount, if any, by which such deposit, if made, when added to the balance on deposit to the credit of the Operating Reserve Sub-Account as of the last day of the immediately preceding month, would exceed thirty percent (30%) of the amount budgeted for Operating Expenses in the Annual Budget for the then current Fiscal Year;

(3) To the Trustee for deposit to the credit of the Interest Sub-Account, an amount equal to (a) any interest due and unpaid on Senior Bonds, plus (b) for each Series of Senior Bonds, one-sixth of the difference between the interest payable on Outstanding Senior Bonds of that Series on any interest payment date within the next six months and the proceeds of Senior Bonds on deposit to the credit of the Interest Sub-Account for paying that interest (provided, however, that for interest payable on any Series of Senior Bonds other than semi-annually, or at a variable rate, and for a first interest payment date or as otherwise provided in a Supplemental Indenture for any Series of Senior Bonds, the amount so deposited shall be as provided in the Supplemental Indenture authorizing the Senior Bonds providing for such deposits). Interest payable shall take into account any Qualified Hedge Agreement as provided in Section 103 of this Indenture. Notwithstanding any other provision of this

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Indenture to the contrary, for all purposes of this Indenture, any net payments required to be made by the Authority to the Provider of that certain Interest Rate Swap Agreement, dated as of March 1, 1993, with respect to the 1993 Bonds including the net payment of any Settlement Amount (as defined in that Agreement), shall be made from amounts on deposit to the credit of the Interest Sub-Account. The amounts so payable under that Interest Rate Swap Agreement shall be paid on an equal and ratable basis with other payments from the Interest Sub-Account.

(4) To the Trustee for deposit to the credit of the Principal Sub-Account, an amount equal to (a) any principal due and unpaid on Outstanding Senior Bonds plus (b) for each Series of Senior Bonds, one-twelfth of any principal (including the maturity amount of Capital Appreciation Bonds) of such Outstanding Senior Bonds payable on the next principal payment date within the next twelve months (provided, however, that a Supplemental Indenture authorizing any Series of Senior Bonds which has Principal Installments payable other than annually shall provide for the amounts to be so deposited, and any Supplemental Indenture authorizing any Series of Senior Bonds may provide for additional deposits in the Principal Sub-Account);

(5) To the Trustee for deposit to the credit of the Redemption Sub-Account an amount for each Series of Senior Bonds equal to one-twelfth of any Sinking Fund Installment of such Outstanding Senior Bonds of that Series payable within the next twelve months (provided, however, that a Supplemental Indenture authorizing Senior Bonds of a Series which has Sinking Fund Installments payable other than annually shall provide for the amounts to be so deposited, and any Supplemental Indenture authorizing Senior Bonds of a Series may provide for additional deposits in the Redemption Sub-Account);

(6) To the Trustee for deposit to the credit of the Provider Payment Sub-Account amounts as provided in any Supplemental Indenture for paying Costs of Credit Enhancement or Qualified Hedge Agreements for Senior Bonds or for making reimbursements to Providers of Credit Enhancement or Qualified Hedge Agreements for Senior Bonds, but no such deposit shall be made for making any termination payment for a Qualified Hedge Agreement when there is any deficiency in the Debt Reserve Account;

(7) To the Trustee for deposit to the credit of the Debt Reserve Account, an amount sufficient to cause the balance in it to equal the Debt Reserve Requirement and to make any required reimbursement to Providers of Reserve Account Credit Facilities, which reimbursement is payable as provided by a Supplemental Indenture from the Debt Reserve Account;

(8) To the Trustee for deposit to the credit of any Junior Bond Debt Service Account or Junior Bond Debt Reserve Account, any amounts as required by, and in the priority established by, any Supplemental Indentures authorizing Junior Bonds;

(9) To the credit of the Renewal and Replacement Account, that portion of the Renewal and Replacement Deposit set forth in the Annual Budget for the then current Fiscal Year which would have accrued on a pro rata basis to the end of the current calendar month if deemed to accrue

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monthly on a pro rata basis from the first day of the then current Fiscal Year, less all other amounts previously transferred by the Treasurer for deposit to the credit of the Renewal and Replacement Account during that Fiscal Year; and

(10) At the direction of the Authority, the balance of such amounts in the Revenue Fund shall be applied as follows:

- (a) first, to the credit of the Improvement Account, for allocation to a project or projects as determined by the Authority in its sole discretion, until the balance in the Account is equal to the Improvement Requirement or such lesser amount as the Authority may from time to time determine by resolution; and
- (b) second, to the credit of the System Reserve Account, the entire amount remaining in the Revenue Fund after depositing or allocating all amounts required to be deposited to the credit of the above Accounts and Sub-Accounts.

Any deficiency in the credits required to the various Accounts and Sub-Accounts in this Section in any month shall be added to the required credit for the next month.

3. For purposes of subsection 2 principal and interest due on a January 1 is treated as due on the preceding December 31. The amounts credited each January 1 and July 1 to the Debt Service Account and each Junior Bond Debt Service Account in excess of the credits required for the Debt Service Account and any Junior Bond Debt Service Account shall be a credit against the next deposit or deposits to that particular Account.

Section 505. Maintenance and Operation Account — Operating Sub-Account. Moneys to the credit of the Operating Sub-Account are to be applied to Operating Expenses at the direction of the Authority, subject to the provisions of Section 711 of this Indenture.

In addition, the Treasurer shall, upon a direction of the Authority signed by an Authorized Officer, at one time or from time to time pay to the Authority from the Operating Sub-Account for a locally held maintenance and operation revolving account in the name of the Authority in a sum or sums aggregating an amount not to exceed an amount (exclusive of reimbursement from time to time for moneys expended for Operating Expenses) determined by resolution of the Authority to be needed for Operating Expenses that cannot otherwise be conveniently paid. Such revolving account (except for sums needed for petty cash purposes) shall be held by the Authority in banks or other financial institutions selected by the Treasurer. Such revolving account shall be reimbursed by the Treasurer from time to time for such Operating Expenses so paid by payments from the Operating Sub-Account upon a direction of the Authority signed by an Authorized Officer.

Section 506. Maintenance and Operation Account — Operating Reserve Sub-Account. Subject to the provisions of Section 711 of this Indenture, moneys, if any, on deposit to the credit of the Operating Reserve Sub-Account shall be held as a reserve for the payment of Operating Expenses and shall be

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withdrawn from time to time by the Authority, to the extent that moneys are not available to the credit of the Operating Sub-Account, in order to pay Operating Expenses. As of the last day of each Fiscal Year the Authority shall transfer from the Operating Reserve Sub-Account to the Operating Sub-Account the amount, if any, to the credit of the Operating Reserve Sub-Account in excess of thirty percent (30%) of the amount budgeted for Operating Expenses in the Annual Budget for the then current Fiscal Year.

If at any time the Authority determines by resolution that the amount on deposit to the credit of the Operating Reserve Sub-Account exceeds that amount which is deemed necessary to be held as a reserve for the payment of Operating Expenses, the amount of the excess shall be withdrawn from such Sub-Account by the Authority and, within five (5) Business Days after the adoption of such resolution, be applied as Revenues pursuant to Section 504.

Section 507. Debt Service Account.

1. The Trustee shall pay to the respective Paying Agents in Current Funds (i) out of the Interest Sub-Account on or before each interest payment date for any of the Senior Bonds, the amount required for the interest payable on such date; (ii) out of the Principal Sub-Account on or before each such interest payment date, an amount equal to the principal amount of the Outstanding Senior Bonds, if any, which matures on such date; and (iii) out of the Redemption Sub-Account on or before the day preceding any date fixed for redemption of the Outstanding Senior Bonds from Sinking Fund Installments, the amount required for the payment of such Redemption Price of the Senior Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents for these purposes on and after their due dates. The Trustee shall also pay out of the Interest Sub-Account the accrued interest included in the purchase price of Senior Bonds purchased for retirement. The Trustee shall, at any time there is any deficiency in credits to the Interest Sub-Account, the Principal Sub-Account and the Redemption Sub-Account, apply amounts in the Provider Payment Sub-Account to remedy those deficiencies, in that order. The Trustee shall pay from the Provider Payment Sub-Account after any payment, as provided in the preceding sentence, has been made, to Providers amounts for paying Costs of Credit Enhancement or Qualified Hedge Agreements for Senior Bonds, or making reimbursement to Providers of Credit Enhancement or Qualified Hedge Agreements for Senior Bonds, as provided in Supplemental Indentures authorizing the issuance of a series of Senior Bonds, but only if there is no deficiency in the Interest, Principal or Redemption Sub-Accounts.

2. Amounts in the Redemption Sub-Account with respect to Sinking Fund Installments shall be applied to the purchase or redemption of Senior Bonds as provided in this subsection.

(1) Amounts deposited to the credit of the Redemption Sub-Account to be used in satisfaction of any Sinking Fund Installment may, and if so directed by the Authority shall, be applied by the Trustee, on or prior to the forty-fifth day preceding the next scheduled Sinking Fund Installment date, to the purchase of Senior Bonds of the Series and maturity for which such Sinking Fund Installment was established. That portion of the purchase price attributable to accrued interest shall be paid from the Interest Sub-Account. All such purchases of Senior Bonds shall be made at prices not exceeding the applicable Sinking Fund Redemption Price of such Senior Bonds plus accrued interest, and such purchases shall be made in such manner as the Authority shall determine. The

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principal amount of any Senior Bonds so purchased shall be deemed to be a part of the Redemption Sub-Account until such Sinking Fund Installment date, for the purpose of calculating the amount on deposit in such Sub-Account.

(2) At any time up to the forty-fifth day preceding the next scheduled Sinking Fund Installment date, the Authority may purchase with any available funds, which may include amounts in the Improvement Account or the System Reserve Account, Senior Bonds for which such Sinking Fund Installment was established and surrender such Senior Bonds to the Trustee at any time up to such forty-fifth day.

(3) To the extent that amounts are available to the credit of the Redemption Sub-Account and the Debt Reserve Account, and after giving effect to the Senior Bonds purchased by the Trustee and Senior Bonds surrendered by the Authority, which shall be credited against the Sinking Fund Installment at their applicable sinking fund Redemption Price, and as soon as practicable after the forty-fifth day preceding the next scheduled Sinking Fund Installment date, the Trustee shall proceed to call for redemption on such scheduled Sinking Fund Installment date Senior Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Senior Bonds maturing on a Sinking Fund Installment date which shall be retired from payments from the Principal Sub-Account) in such amount as shall be necessary to complete the retirement of the unsatisfied portion of such Sinking Fund Installment. The Trustee shall pay out of the Redemption Sub-Account (after transfers to it from the Debt Reserve Account, if required) to the appropriate Paying Agents, on or before the day preceding such redemption date, the Redemption Price required for the redemption of the Senior Bonds so called for redemption, and such amount shall be applied by such Paying Agents to such redemption.

(4) If the principal amount of Senior Bonds retired pursuant to this subsection through application of amounts in satisfaction of any Sinking Fund Installment shall exceed such Sinking Fund Installment, or in the event of the purchase or redemption from moneys other than from the Redemption Sub-Account of Senior Bonds of any Series and maturity for which Sinking Fund Installments have been established, such excess or the principal amount of Senior Bonds so purchased or redeemed, as the case may be, shall be credited toward future scheduled Sinking Fund Installments either (i) in the order of their due dates or (ii) in such order as the Authority establishes in a certificate signed by an Authorized Officer and delivered to the Trustee on or prior to the date which is forty-five days after such redemption date.

(5) Failure to retire the entire scheduled amount of Senior Bonds through the application of any Sinking Fund Installment on or prior to the next scheduled Sinking Fund Installment date shall not be an Event of Default under Section 801 of this Indenture. Any amount of Senior Bonds not so retired shall be added to the amount to be retired on the next scheduled Sinking Fund Installment date for such Senior Bonds.

3. On each scheduled Sinking Fund Installment date, the Trustee shall determine the amount, if any, remaining in the Redemption Sub-Account with respect to such Sinking Fund Installment after all

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requirements of the Sinking Fund Installment for such Sinking Fund Installment date have been satisfied. Any such amount shall be used to remedy any deficiency in any Sub-Account in the Debt Service Account and then any remaining amounts shall be transferred promptly from the Redemption Sub-Account to the Authority and applied as Revenues pursuant to Section 504.

4. On each maturity date of Senior Bonds, the Trustee shall determine the amount, if any, remaining in the Principal Sub-Account after all requirements for payment of principal due on each such maturity date have been satisfied. Any such amount shall be used to remedy any deficiency in any Sub-Account in the Debt Service Account and then any remaining amounts shall be transferred promptly from the Principal Sub-Account to the Authority and applied as Revenues pursuant to Section 504.

5. The amount, if any, deposited in the Interest Sub-Account from the proceeds of Senior Bonds shall be set aside in such Sub-Account and applied to the payment of the interest on the Senior Bonds with respect to which such proceeds were deposited as the same becomes due and payable.

Section 508. Debt Reserve Account.

1. If on the due date of any interest on any Senior Bonds or any Principal Installment of any Senior Bonds, the aggregate amount to the credit of the Debt Service Account shall be less than the amount required to pay such interest or Principal Installment (and any other net amounts payable by the Authority from the Interest Sub-Account pursuant to subsection 2 of Section 103), the Trustee shall apply amounts from the Debt Reserve Account to the extent necessary to make good the deficiency, in the following order of priority: first to the credit of the Interest Sub-Account, then to the credit of the Principal Sub-Account and then to the credit of the Redemption Sub-Account.

2. The Trustee shall pay to Providers of Reserve Account Credit Facilities any reimbursement which is payable from the Debt Reserve Account as provided by a Supplemental Indenture, and upon the written direction of an Authorized Officer shall use amounts in the Debt Reserve Account to acquire a Reserve Account Credit Facility. Any such payment or acquisition shall, however, be made only if upon the payment of the amount to the credit of the Debt Reserve Account, including the amount of any Reserve Account Credit Facilities, either is not less than the Debt Reserve Requirement or is not reduced by the payment or acquisition.

3. Whenever the amount to the credit of the Debt Reserve Account shall exceed the Debt Reserve Requirement after making any required reimbursement to a Provider of a Reserve Account Credit Facility, the Trustee shall use such excess to remedy any deficiency in the Debt Service Account and at the written direction of the Authority promptly transfer the amount of such excess to the Authority, to be applied as Revenues pursuant to Section 504; provided, however, that upon the written direction of the Authority, the Trustee shall promptly transfer all or any portion of the amount of such excess as specified in such direction (i) to a refunding or defeasance escrow established pursuant to Section 1201 or (ii) for any purpose for which Senior Bonds may be issued.

4. Whenever the amount to the credit of the Debt Reserve Account, together with the amount to the credit of the Debt Service Account after making any required reimbursement to a Provider of a Reserve

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Account Credit Facility as provided by a Supplemental Indenture, are sufficient to pay all Outstanding Senior Bonds in accordance with their terms, the funds on deposit to the credit of the Debt Reserve Account shall be transferred to the Debt Service Account.

Section 509. Junior Bond Accounts. The Trustee shall apply amounts in the Junior Bond Debt Service Accounts and the Junior Bond Debt Reserve Accounts as required by, and in the priority established by, any Supplemental Indenture authorizing Junior Bonds.

Section 510. Renewal and Replacement Account.

1. Moneys to the credit of the Renewal and Replacement Account are to be applied to Renewal and Replacement Expenses at the direction of the Authority.

2. In addition, the Treasurer shall, upon a direction of the Authority signed by an Authorized Officer, at one time or from time to time pay to the Authority from the Renewal and Replacement Account to a locally held revolving account in the name of the Authority a sum or sums aggregating an amount not to exceed an amount (exclusive of reimbursement from time to time for moneys expended for Renewal and Replacement Expenses) determined by resolution of the Authority to be needed for Renewal and Replacement Expenses that cannot otherwise be conveniently paid. Such revolving account (except for sums needed for petty cash purposes) shall be held by the Authority in banks or other financial institutions selected by the Treasurer. Such revolving account shall be reimbursed by the Treasurer from time to time for such Renewal and Replacement Expenses so paid by payments from the Renewal and Replacement Account upon a direction of the Authority signed by an Authorized Officer.

3. If at any time the amounts to the credit of the Debt Service Account, the Debt Reserve Account, the Improvement Account and the System Reserve Account shall be insufficient to pay the interest and Principal Installments becoming due on the Senior Bonds, the Authority upon notice from the Trustee shall transfer from the Renewal and Replacement Account and its revolving account to the Trustee for deposit to the credit of the Debt Service Account the amount necessary (or the entire available amount to the credit of the Renewal and Replacement Account and its revolving account if less than the amount necessary) to make up such deficiency, in the following order of priority: first, to the credit of the Interest Sub-Account, then to the credit of the Principal Sub-Account and then to the credit of the Redemption Sub-Account and then to the credit of the Provider Payment Sub-Account.

4. If, at any time after the transfers referred to in subsection 3 of this Section have been made or have been determined by the Trustee to be unnecessary, the amounts to the credit of any Junior Bond Debt Service Account or Junior Bond Debt Reserve Account, the Improvement Account and the System Reserve Account shall be insufficient to pay the interest and Principal Installments becoming due on any Junior Bonds or to make required payments from any Junior Bond Debt Service Account, the Authority upon notice from the Trustee shall transfer from the Renewal and Replacement Account and its revolving account to the Trustee for deposit to the credit of the Junior Bond Debt Service Account the amount necessary (or the entire available amount to the credit of the Renewal and Replacement Account and its revolving account if less than the

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amount necessary) to make up such deficiency in the order of priority specified by the Supplemental Indenture authorizing the related Junior Bonds.

Section 511. Improvement Account.

1. Moneys to the credit of the Improvement Account are to be applied to the payment of the costs of Improvements at the direction of the Authority.

2. In addition, the Treasurer shall, upon a direction of the Authority signed by an Authorized Officer, at one time or from time to time pay to the Authority from the Improvement Account to a locally held revolving account in the name of the Authority a sum or sums aggregating an amount not to exceed an amount (exclusive of reimbursement from time to time for moneys expended for Improvements) determined by resolution of the Authority to be needed for Improvements that cannot otherwise be conveniently paid. Such revolving account (except for sums needed for petty cash purposes) shall be held by the Authority in banks or other financial institutions selected by the Treasurer. Such revolving account shall be reimbursed by the Treasurer from time to time for such Improvements so paid by payments from the Improvement Account upon a direction of the Authority signed by an Authorized Officer.

3. If at any time the amounts to the credit of the Debt Service Account, the Debt Reserve Account and the System Reserve Account shall be insufficient to pay the interest and Principal Installments becoming due on the Senior Bonds and to make required payments from the Debt Service Account, the Authority upon notice from the Trustee shall transfer from the Improvement Account and its revolving account to the Trustee for deposit to the credit of the Debt Service Account the amount necessary (or the entire available amount) to the credit of the Improvement Account and its revolving account if less than the amount necessary) to make up such deficiency, in the following order of priority: first, to the credit of the Interest Sub-Account, then to the credit of the Principal Sub-Account and then to the credit of the Redemption Sub-Account and then to the credit of the Provider Payment Sub-Account.

4. If, at any time after the transfers referred to in subsection 3 of this Section have been made or have been determined by the Trustee to be unnecessary, the amounts to the credit of any Junior Bond Debt Service Account, or Junior Bond Debt Reserve Account and the System Reserve Account shall be insufficient to pay the interest and Principal Installments becoming due on any Junior Bonds, the Authority upon notice from the Trustee shall transfer from the Improvement Account and its revolving account to the Trustee for deposit to the credit of the Junior Bond Debt Service Accounts the amount necessary (or the entire available amount) to the credit of the Improvement Account and its revolving account if less than the amount necessary) to make up such deficiency in the order of priority specified by the Supplemental Indenture authorizing the related Junior Bonds.

5. The Authority may, from time to time, cause the Consulting Engineers to prepare and file with the Authority estimates of the cost of proposed Improvements, which estimates may include or may be limited to the cost of any preliminary studies, and the Authority may adopt resolutions pursuant to such estimates for the establishment of the Improvement Requirement.

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6. The cost of any Improvement may be revised by the Authority from time to time, in accordance with the procedures set forth in the immediately preceding subsection 5. In the event that the cost of any Improvement shall be increased in accordance with such procedures, the Improvement Requirement with respect to such Improvement shall be correspondingly increased. In the event that the cost of any Improvement shall be decreased in accordance with such procedures, the Improvement Requirement with respect to such Improvement shall be correspondingly decreased and any resulting excess to the credit of the Improvement Account shall in the sole discretion of the Authority, be promptly credited for the cost of any other Improvement, or be promptly transferred by the Authority to the credit of the System Reserve Account.

7. Nothing contained in this Indenture shall prohibit the Authority from withdrawing moneys deposited to the credit of the Improvement Account for any Improvement, and depositing such moneys to the credit of an account in the Construction Fund or to the credit of any other fund, account or sub-account maintained for the purpose of paying the cost of such Improvement.

Section 512. System Reserve Account.

1. The Authority shall transfer to the Trustee, upon requisition by the Trustee, from amounts on deposit to the credit of the System Reserve Account and its revolving account (described below) for credit (i) to the various Accounts and Sub-Accounts, and in the order of the priority specified in subsection 2 of Section 504 the amount necessary (or the entire amount) to the credit of the System Reserve Account and its revolving account if less than the amount necessary) to make up any deficiencies in payments to those Accounts and Sub-Accounts required by Section 504, and (ii) in the event of any transfer of moneys pursuant to Section 508, to the credit of the Accounts from which such transfers were made in the order of priority specified in subsection 2 of Section 504 the amount of any resulting deficiency in such Accounts.

2. Amounts on deposit to the credit of the System Reserve Account and its revolving account after all transfers and payments required under subsection 1 above, may, in the sole discretion of the Authority, be applied to any one or more of the following purposes:

(a) to make payments to Holders of Subordinated Indebtedness or to trustees or paying agents for such Holders at the times specified in and in accordance with the terms of any resolution, indenture or instrument governing such Subordinated Indebtedness;

(b) to provide for the purchase or redemption of any Bonds and expenses of such purchase or redemption;

(c) to make payments into any separate account or accounts established in the Construction Fund for application to the purposes of such account;

(d) to provide improvements, extensions, betterments, renewals and replacements of the Tollway System, including studies, surveys, estimates and investigations relating thereto, or the provision of one or more reserves for those purposes;

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- (e) to apply as Revenues pursuant to Section 504;
- (f) to be transferred to any Fund or Account established under this Indenture or any Supplemental Indenture; and
- (g) for any other lawful Authority purpose, including repayment of any other indebtedness of the Authority, however incurred.

3. In addition, the Treasurer shall, upon a direction of the Authority signed by an Authorized Officer, at one time or from time to time pay to the Authority from the System Reserve Account for a locally held system reserve revolving account in the name of the Authority a sum or sums aggregating an amount not to exceed an amount (exclusive of reimbursement from time to time for moneys expended for any of the purposes specified in subsection 2 of this Section 512) determined by resolution of the Authority to be needed for such purposes that cannot otherwise be conveniently paid. Such revolving account (except for sums needed for petty cash purposes) shall be held by the Authority in banks or other financial institutions selected by the Treasurer. Such revolving account shall be reimbursed by the Treasurer from time to time for expenditures for such purposes so paid by payments from the System Reserve Account upon a direction of the Authority signed by an Authorized Officer.

Section 513. Subordinated Indebtedness. Nothing in this Indenture shall prohibit or prevent, or be deemed or construed to prohibit or prevent, the Authority (to the extent now permitted under the Act or subsequently permitted by law) from issuing bonds, notes, certificates, warrants or other evidences of indebtedness, payable as to principal and interest from the amounts on deposit to the credit of the System Reserve Account for any one or more of the purposes for which Bonds may be issued under this Indenture. Such bonds, notes, certificates, warrants or other evidences of indebtedness and the payment thereof may be secured by a lien and pledge on amounts payable from the System Reserve Account to the extent permitted under this Section 513 and Section 512.

Section 514. Credit Facilities in Lieu of Deposits into the Debt Reserve Account. In lieu of any required deposits into the Debt Reserve Account, the Authority may cause to be deposited into the Debt Reserve Account one or more Reserve Account Credit Facilities which shall be in total amounts equal to the difference between the Debt Reserve Requirement and the sums then on deposit to the credit of the Debt Reserve Account, if any. Any Reserve Account Credit Facility shall be payable to the Trustee for the equal and ratable benefit of all of the Holders of the Senior Bonds (upon the giving of notice as required under the Reserve Account Credit Facility) on any interest payment date on which moneys will be required to be withdrawn from the Debt Reserve Account and applied to the payment of the Principal Installments of or interest on any such Bonds which withdrawal cannot be met by any amounts on deposit to the credit of the Debt Reserve Account. The Provider of the Reserve Account Credit Facility which is a surety bond or insurance policy shall be an insurer whose municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bond issues results in such issues being rated in the highest rating category by Standard & Poor's Corporation and Moody's Investors Service, Inc., or their successors, or any insurer who holds the highest policyholder rating accorded insurers by A.M. Best & Co. or any comparable service; provided that the Authority shall give each rating agency which gives any Bonds a Rating at least 7

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days prior written notice before acquiring such a Reserve Account Credit Facility which does not meet the rating requirement of this sentence from Standard & Poor's Corporation and Moody's Investors Service, Inc., or their successors. The Provider of the Reserve Fund Credit Facility which is a letter of credit shall be a bank or trust company or other legal entity which is rated not lower than the second highest rating category by Standard & Poor's Corporation and Moody's Investors Service, Inc., or their successors, and the letter of credit or other credit facility itself shall be rated in the highest category of both such rating agencies. If a disbursement is made pursuant to any Reserve Account Credit Facility pursuant to this Section 514, the Authority shall be obligated either (i) to reinstate the maximum limits of such Reserve Account Credit Facility or (ii) to deposit to the credit of the Debt Reserve Account, funds in the amount of the disbursement made under such Reserve Account Credit Facility, or a combination of such alternatives, as shall provide that the amount to the credit of the Debt Reserve Account equals the Debt Reserve Requirement within a time period not longer than would have been required to restore the Debt Reserve Account by operation of clause (7) of subsection 2 of Section 504, as applicable.

Section 515. Funds, Accounts and Sub-Accounts Held by the Authority and the Treasurer. Notwithstanding anything in this Indenture to the contrary, any Funds, Accounts and Sub-Accounts which by the terms of this Indenture are to be held by the Authority (except the revolving accounts described in Sections 503, 505, 509, 510 and 511) shall be held by the Treasurer. All Funds, Accounts and Sub-Accounts held by the Treasurer under the terms of this Indenture shall be held in trust in a special fund known as the "Illinois State Toll Highway Authority Fund," which fund shall be held, invested and disbursed upon the order of the Authority and in accordance with the provisions and covenants of this Indenture. That fund shall be protected by a corporate surety bond, executed by the Treasurer, with a surety authorized to do business in the State of Illinois, in such amount as shall from time to time be authorized by resolution of the Authority and approved by the Governor of the State of Illinois, all as required or permitted by the Act.

Section 516. Creation of Additional Accounts and Sub-Accounts. The Trustee or the Treasurer, as the case may be, shall, at the written request of the Authority, establish such additional Accounts within any of the Funds established under this Indenture, and Sub-Accounts within any of the Accounts established under this Indenture, as shall be specified in such written request, for the purpose of enabling the Authority to identify or account for more precisely the sources, timing and amounts of transfers or deposits into such Funds, Accounts and Sub-Accounts, the amounts on deposit in or credited to such Funds, Accounts or Sub-Accounts as of any date or dates of calculation, and the sources, timing and amounts of transfers, disbursements or withdrawals from such Funds, Accounts or Sub-Accounts; but the establishment of any such additional Accounts or Sub-Accounts shall not alter or modify in any manner or to any extent any of the requirements of this Indenture with respect to the deposit or use of moneys in any Fund, Account or Sub-Account established under this Indenture.

ARTICLE VI

DEPOSITARIES, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

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Section 601. Depositories. All moneys held by the Trustee under the provisions of this Indenture shall be deposited with one or more Depositories (selected by the Treasurer with the consent of the Trustee, which consent shall not be unreasonably withheld) in the name of and in trust for the Trustee. All moneys held by the Authority under this Indenture shall be deposited in one or more Depositories (selected by the Treasurer) in the name of the Authority. All moneys deposited under the provisions of this Indenture with the Trustee, the Authority or any Depository shall be held in trust and applied only in accordance with the provisions of this Indenture, and each of the Funds, Accounts and Sub-Accounts established by this Indenture shall be a trust fund.

Section 602. Deposits.

1. No moneys shall be deposited with any Depository, except a Fiduciary in its capacity as such, in an amount exceeding fifty percent (50%) of the amount which an officer of such Depository shall certify, at least once each Fiscal Year, to the Authority and the Treasurer and, with respect to moneys in Funds, Accounts and Sub-Accounts required to be held by the Trustee, to the Trustee, as the capital stock, surplus and retained earnings of such Depository in the case of any Depository which is a bank, national banking association or trust company or as the net worth of such Depository in the case of any Depository which is a savings or savings and loan institution.

2. All moneys held by any Depository under this Indenture may be placed on demand or time deposit, as directed by the Authority, provided that such deposits shall permit the moneys so held to be available for use when needed. Any such deposit may be made in the commercial banking department of any Fiduciary which may honor checks and drafts on such deposit as if it were not a Fiduciary. All moneys held by a Fiduciary may be deposited in its banking department on demand or, if and to the extent directed by the Authority, on time deposit, provided that such moneys on deposit be available for use when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size.

3. All moneys on deposit to the credit of the Debt Service Account, the Debt Reserve Account, the Junior Bond Debt Service Account and the Junior Bond Debt Reserve Account shall be continuously and fully secured for the benefit of the Authority and the Holders of the related Bonds by lodging with the Trustee as collateral security, direct obligations of or obligations unconditionally guaranteed by the United States having a market value (exclusive of accrued interest) of not less than the amount of such moneys. All moneys on deposit to the credit of the Construction Fund shall be continuously and fully secured for the benefit of the Authority and the Holders of the Bonds and coupons by lodging with the Treasurer (or the Trustee in the event that the Trustee holds the separate, segregated account for which such investments are made) as collateral security, direct obligations of or obligations unconditionally guaranteed by the United States of America having a market value (exclusive of accrued interest) not less than the amount of such moneys. All other moneys held for the Authority under this Indenture shall be continuously and fully secured for the benefit of the Authority and the Holders of the Bonds and coupons as provided by applicable state law with respect to the investment of public funds.

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4. All moneys deposited with the Trustee and each Depository shall be credited to the particular Fund, Account or Sub-Account to which such moneys belong.

Section 603. Investment of Certain Moneys.

1. Moneys held in any separate segregated accounts of the Construction Fund held by the Trustee, the Debt Service Account and its Sub-Accounts or the Debt Reserve Account, shall be invested and reinvested by the Trustee at the direction of the Authority confirmed in writing to the fullest extent practicable in Investment Securities which mature no later than necessary to provide moneys when needed for payments to be made from such Funds, Accounts or Sub-Accounts, but no moneys in the Debt Reserve Account shall be invested in any Investment Security maturing more than ten years from the date of such investment. Amounts in the Revenue Fund held by the Authority may be invested by the Treasurer at the direction of the Authority in Investment Securities which mature not later than necessary to provide moneys when needed for payments from such portion of the Revenue Fund so held by the Authority pursuant to this Indenture. Notwithstanding any limitation in this section, moneys held in any Junior Bond Debt Service Account or Junior Bond Debt Reserve Account shall be invested and reinvested by the Trustee as provided in the Supplemental Indentures providing for such Account or Accounts.

2. Moneys held in two or more Funds, Accounts or Sub-Accounts may be jointly invested in one or more Investment Securities, provided that such investment complies with all the terms and conditions hereof relating to the investment of moneys in such Funds, Accounts or Sub-Accounts, as the case may be, and the Authority maintains books and records as to the allocation of such investment as among such Funds, Accounts or Sub-Accounts. Investment income from investments held in the various Funds, Accounts and Sub-Accounts shall remain in and be a part of the respective Funds, Accounts and Sub-Accounts in which such investments are held, except as otherwise provided in this Indenture.

3. Notwithstanding any other provisions of this Indenture to the contrary, all investments made under this Indenture shall be consistent with the expectations expressed in any arbitrage certificate executed on behalf of the Authority and filed with the Trustee with respect to any Series of Bonds issued under this Indenture.

Section 604. Valuation and Sale of Investments.

1. Investment Securities in any Fund, Account or Sub-Account created under the provisions of this Indenture shall be deemed at all times to be part of such Fund, Account or Sub-Account and any profit realized from the liquidation of such investment shall be credited to such Fund, Account or Sub-Account and any loss resulting from liquidation of such investment shall be charged to such Fund, Account or Sub-Account.

2. Valuation of Investment Securities held in the Funds, Accounts and Sub-Accounts established under this Indenture shall be made as often as may be necessary to determine the amounts held under this Indenture, except the valuation of Investment Securities held in the Debt Service Account and its Sub-Accounts, the Debt Reserve Account, any Junior Bond Debt Service Account and its Sub-Accounts and any Junior Bond Debt Reserve Account shall also be made on December 20 of

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each year. For purposes of any valuation under this Section, in computing the amounts in such Funds, Accounts and Sub-Accounts, Investment Securities shall be valued as provided in subsection 3 of this Section 604.

3. The value of Investment Securities shall mean their fair market value, provided, however, that all Special Treasury Obligations shall be valued at par and those obligations which are redeemable at the option of the holder shall be valued at the price at which such obligations are then redeemable.

4. Except as otherwise provided in this Indenture, the Trustee or the Treasurer at the direction of the Authority shall sell at the best price obtainable, or present for redemption, any Investment Security held in any Fund, Account or Sub-Account whenever it shall be necessary in order to provide moneys to meet any payment or transfer from such Fund, Account or Sub-Account as the case may be. The Trustee, the Treasurer and the Authority shall not be liable or responsible for making any such investment in the manner provided above or for making any such investment in the manner provided above or for any loss resulting from any such investment.

ARTICLE VII

PARTICULAR COVENANTS AND REPRESENTATIONS OF THE AUTHORITY

Section 701. Payment of Bonds. The Authority covenants and agrees that it will pay or cause payment to be made of the principal at maturity and Redemption Price, if any, of every Outstanding Bond, whether a serial Bond or a term Bond, and the interest thereon, at the places, on the dates and in the manner provided in this Indenture, in the Bonds and in any coupons appertaining to coupon Bonds. The Authority further covenants and agrees that it will make deposits to meet all Sinking Fund Installments for the 1985 Series Bonds and for each other Series of Bonds for which Sinking Fund Installments are established, in accordance with and subject to the provisions of this Indenture and each Supplemental Indenture.

Section 702. Extension of Payment of Bonds and Coupons. If the maturity of any Bond, coupon or installment of interest shall be extended pursuant to the written consent of the owner thereof, such Bond, coupon or installment of interest shall not be entitled, in case of any default under this Indenture, to the benefit of this Indenture or to payment out of Revenues or Funds, Accounts and Sub-Accounts established by this Indenture or moneys held by Fiduciaries or Depositaries (except moneys held in trust for the payment of such Bond, coupon or installment of interest) until the prior payment of the principal of all Bonds Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended coupons or claims for interest. Nothing herein shall be deemed to limit the right of the Authority to issue Priority Refunding Bonds or Refunding Bonds and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

Section 703. Offices for Servicing Bonds. The Authority shall at all times maintain one or more Paying Agents in the City of New York in the State of New York, or in the City of Chicago, in the State of

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Illinois, where Bonds and coupons may be presented for payment and where Bonds may be presented for registration, transfer or exchange.

Section 704. Further Assurance. At any and all times the Authority shall, as far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further indentures, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming, all and singular, the rights, Revenues and other moneys, securities and funds hereby pledged or assigned, or which the Authority may become bound to pledge or assign.

Section 705. Power to Issue Bonds and Pledge Revenues and Other Funds. The Authority is duly authorized under all applicable laws to issue the Bonds and to execute and deliver this Indenture and to pledge the Revenues and other moneys, securities and funds pledged by this Indenture and to grant the lien granted by this Indenture thereon in the manner and to the extent provided in this Indenture. Except as provided in Section 501 and Section 906, the Revenues and other moneys, securities and funds so pledged, and subject to such lien, are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created by this Indenture, and all action on the part of the Authority to that end has been and will be duly and validly taken. The Bonds and the provisions of this Indenture are and will be valid and legally enforceable obligations of the Authority in accordance with their terms and the terms of this Indenture. The Authority covenants that upon the date of issuance of any of the Bonds, all conditions, acts and things required by the Constitution and statutes of the State of Illinois (including, but not limited to, the Act) and this Indenture to exist, to have happened and to have been performed precedent to or in the issuance of such Bonds shall exist, have happened and have been performed. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of and lien on the Revenues and other moneys, securities and funds pledged under this Indenture and all the rights of the Bondholders under this Indenture against all claims and demands.

Section 706. Power to Operate Tollway System and Collect Tolls and Fees. The Authority has, and will have so long as any Bonds are Outstanding, the right and lawful power to construct, reconstruct, improve, maintain, operate and repair the Tollway System and the exclusive right, subject to this Indenture, to fix and collect tolls, fees, rents or charges for its use.

Section 707. Indebtedness and Liens. The Authority shall not issue any bonds or other evidences of indebtedness, other than the Bonds and Subordinated Indebtedness, which are secured by a pledge of or lien on the Net Revenues or the moneys, securities or funds held or set aside by the Authority or by the Trustee under this Indenture, and shall not create or cause to be created any lien or charge on the Net Revenues or such moneys, securities or funds; provided, however, that nothing contained in this Indenture shall prevent the Authority from issuing (i) evidences of indebtedness payable from moneys in the Construction Fund as part of the Cost of Construction of any Project, or payable from, or secured by the pledge of, Revenues to be derived on and after such date as the pledge of Net Revenues provided in this Indenture shall be discharged and satisfied as provided in Section 1201, or (ii) Subordinated Indebtedness. The Authority reserves the right to issue bonds or other evidences of indebtedness for any purpose payable from or secured by funds or sources other than Revenues or moneys on deposit with the Trustee or the Authority under this

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Indenture, provided, however, that such bonds or other evidences of indebtedness may be paid from moneys on deposit in the System Reserve Account.

Section 708. Sale, Lease and Encumbrance of Property. The Authority covenants that so long as any Bonds are Outstanding under this Indenture, the Authority will not sell, lease or otherwise dispose of or encumber the Tollway System or any part thereof and will not create or permit to be created any charge or lien on the Revenues, except as permitted under this Indenture; provided, however, that, to the extent permitted by law, the Authority may lease or make contracts or grant licenses for the operation of or grant easements or other rights with respect to, any part of the Tollway System if such lease, contract, license, easement or right does not impede or restrict the operation by the Authority of the Tollway System, and may also sell, lease or make contracts or grant licenses for the operation of, or grant other rights with respect to any part of the Tollway System for use as motor fuel service stations and facilities, garages, stores, restaurants, commercial or recreational areas or facilities, telephone, telegraph, light, power lines, utilities, tracks for railroad, railway or street railway or other concessions, if the Authority by resolution determines that such sale, lease, contract, license, easement or right does not impede or restrict the operation by the Authority of the Tollway System. The Authority may, however, from time to time, sell, exchange or otherwise dispose of any machinery, fixtures, apparatus, tools, instruments or other movable property acquired by it from the proceeds of Bonds or Subordinated Indebtedness, if the Authority by resolution shall determine that such articles are no longer needed in connection with the construction or operation and maintenance of the Tollway System and the proceeds of any such disposition shall be applied to the replacement of the property so sold or disposed of or the acquisition of property of equal or greater value or shall be paid by the Authority to the Trustee for deposit to the credit of the Construction Fund or be deposited by the Authority to the credit of the Renewal and Replacement Account, the Improvement Account or the System Reserve Account or paid by the Authority to be applied as Revenues pursuant to Section 504, all as the Authority may direct. The Authority may from time to time sell, exchange or otherwise dispose of any real property or release, relinquish or extinguish any interest in it as the Authority by resolution shall declare is not needed in connection with the maintenance and operation of the Tollway System, and, in the judgment of the Authority, will not in the future be needed for any foreseeable improvement to the Tollway System. The proceeds of any such disposition, if any, shall be applied as hereinabove provided for the proceeds of the sale or disposal of movable property. Any machinery, fixtures, apparatus, tools, instruments or other movable property acquired by the Authority from other than proceeds of Bonds or Subordinated Indebtedness may be disposed of in its discretion.

Section 709. Consulting and Traffic Engineers.

1. The Authority shall, until the Bonds and the interest thereon shall have been paid or provision for such payment shall have been made, for the purpose of performing and carrying out the duties imposed on the Consulting Engineers by this Indenture, employ, as Consulting Engineers, an independent engineer or engineering firm or corporation (other than the Traffic Engineers) having a nationwide and favorable reputation for skill and experience in such work.

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2. The Authority shall, until the Bonds and the interest thereon shall have been paid or provision for such payment shall have been made, for the purpose of performing and carrying out the duties imposed on the Traffic Engineers by this Indenture, employ, as Traffic Engineers, an independent engineer or engineering firm or corporation (other than the Consulting Engineers) having a nationwide and favorable reputation for skill and experience in such work. In performing any duties and rendering any certificates or reports required by this Indenture, the Traffic Engineers may rely on estimates supplied by the Authority of all Revenues except tolls derived from the operation of the Tollway System.

Section 710. Annual Budget.

1. The Authority shall prepare a tentative budget of the Operating Expenses for the ensuing Fiscal Year and, on or before October 31 of each Fiscal Year, submit the same to the Trustee and the Consulting Engineers. The tentative budget shall include the recommendations of the Consulting Engineers as to the Renewal and Replacement Deposit for the ensuing Fiscal Year delivered to the Authority in writing and shall be accompanied by the Authority's estimate of the amount which, in the ensuing Fiscal Year, will be available for credit to the Improvement Account and the System Reserve Account and shall also be accompanied by a statement of the Authority as to the actual Revenues for the first eight (8) months of the current Fiscal Year and estimated Revenues for the next four (4) months of the current Fiscal Year and for the ensuing Fiscal Year. The Authority shall divide such tentative budget into reasonable classifications and divisions. The tentative budget, consisting of the amounts budgeted for Operating Expenses and the Renewal and Replacement Deposit, shall be subject to amendment by the Authority before final adoption (but only after serving a copy of the proposed amendment or amendments upon the Consulting Engineers).

2. If the Consulting Engineers shall object to any item in the tentative budget or in any proposed amendment or amendments to it, they shall prepare and file with the Authority within ten (10) days after receipt of a copy of it, a statement of their objections thereto together with their recommendations as to the changes which should be made. If the Authority shall desire to adopt finally the tentative budget (or the tentative budget as amended) as the Annual Budget without complying with the recommended changes of the Consulting Engineers, copies of the tentative budget which the Authority intends to adopt, accompanied by the objections and recommended changes of the Consulting Engineers shall, within five (5) days of receipt of the objections and recommendations, be sent to the Trustee for inspection by Bondholders and also to every Bondholder who, within two (2) years prior to the date of such notice, shall have filed with the Authority a statement of her or his name and address together with a request for copies of such notices. If the Holders of twenty percent (20%) in aggregate principal amount of the Senior Bonds then Outstanding shall so request in writing within fourteen (14) days of the date of mailing of the aforesaid copies to the Trustee and Bondholders, the Authority shall, not less than twenty-one (21) days before the date for final adoption of the Annual Budget, hold a public hearing at which the Holder of any Bond may appear in person or by agent or attorney and present any objections the Holder may have to adoption of the tentative budget as the Annual Budget for such year. Notice of the time and place of such hearing shall be published at least once in an Authorized Newspaper, at least five (5) days before such hearing, and the Authority shall at least five (5) days before such hearing cause a copy of such notice to be mailed to the Trustee for inspection by Bondholders and also to every Bondholder who within two (2) years prior to the date

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of such notice shall have filed with the Authority a statement of the Holder's name and address together with a request for copies of such notices.

3. On or before January 31 of each Fiscal Year, the Authority shall finally adopt the Annual Budget for such Fiscal Year. The Authority may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year. Copies of the Annual Budget and of any amended Annual Budget shall be promptly filed with the Trustee for inspection by Bondholders.

4. If the Authority desires to adopt an amended Annual Budget for any Fiscal Year providing for total Operating Expenses exceeding one hundred ten percent (110%) of the Annual Budget initially adopted for such year, the Authority shall give the Consulting Engineers not less than ten (10) days prior written notice thereof, including a copy of the proposed amended Annual Budget. If the Consulting Engineers shall file an objection to such proposed amended Annual Budget with the Authority within ten (10) days of receipt of such notice, such amended Annual Budget shall not be effective or supersede any prior Annual Budget until the Authority shall adopt said amended Annual Budget by not less than a three-fifths (3/5) vote of all Directors of the Authority taken at a public meeting. Notice of such public meeting shall be given in accordance with law.

5. If for any reason the Authority shall not have adopted the Annual Budget before January 31 of any Fiscal Year, the budget for the preceding Fiscal Year shall be deemed to be in effect for such Fiscal Year until the Annual Budget for such Fiscal Year is adopted. For any purpose of computation under the provisions of Article V, the Annual Budget for the preceding year shall be deemed to have been adopted for any Fiscal Year until the Annual Budget for such Fiscal Year shall be adopted and a copy thereof filed with the Trustee.

Section 711. Limitations on Operating Expenses. The Authority shall not pay Operating Expenses in any Fiscal Year in excess of the reasonable and necessary amount thereof, and shall not expend an amount for Operating Expenses in such Fiscal Year in excess of the aggregate amounts provided for Operating Expenses in the Annual Budget as originally adopted or as amended.

Section 712. Operation and Maintenance of Tollway. The Authority shall at all times operate or cause to be operated the Tollway System properly and in a sound and economical manner and shall maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Tollway System may be properly and advantageously conducted.

Section 713. Tolls and Charges.

1. The Authority shall at all times charge and collect tolls for the use of the Tollway System at rates not less than those set forth in any schedule of tolls then in effect.

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2. The Authority shall at all times fix, charge and collect such tolls for the use of the Tollway System as shall be required in order that in each Fiscal Year Net Revenues shall at least equal the Net Revenue Requirement for such Fiscal Year.

3. On or before October 31 of each Fiscal Year the Authority shall cause the Traffic Engineers to make a written estimate of the revenues from tolls for the last four (4) months of such Fiscal Year and for the ensuing Fiscal Year and shall complete a review of its financial condition for the purpose of estimating whether the Net Revenues for such Fiscal Year were, and for the next succeeding Fiscal Year will be, sufficient to comply with subsection 2 of this Section and shall, by resolution, make a determination with respect to that sufficiency. Such review shall take into consideration the anticipated completion date of any uncompleted Projects and the issuance of future Series of Bonds if necessary to finance the completion of such Projects. A copy of such resolution, certified by an Authorized Officer, together with a certificate of such Authorized Officer, including a statement setting forth the actual and estimated Revenues (including the estimates of toll revenues prepared by the Traffic Engineers), Operating Expenses, Aggregate Debt Service, Junior Bond Revenue Requirement, and Renewal and Replacement Deposit and any other estimates or assumptions upon which such determination was based, shall be filed with the Trustee on or before December 5 of each Fiscal Year, or may be included as an appendix to the tentative budget as provided in Section 710. If the Authority determines that the Net Revenues may not be sufficient to meet the Net Revenue Requirement in either the current or ensuing Fiscal Year, it shall (a) forthwith cause the Traffic Engineers to provide a recommended schedule of tolls for the Tollway System which, in the opinion of the Traffic Engineers, will cause sufficient Revenues to be collected to comply with subsection 2 of this Section 713 in such ensuing Fiscal Year and to eliminate the amount of such estimated deficiency from such current Fiscal Year not later than twelve (12) months after the effective date of such recommended schedule of tolls, and (b) as promptly as practicable but no later than April 30 of such following Fiscal Year, adopt and place in effect the schedule of tolls recommended by the Traffic Engineers.

4. Except as provided in subsections 6 and 7 below, the Authority shall not effect any reduction in any toll rate fixed for the use of the Tollway System, except after thirty (30) days' notice to the Trustee and then only if, accompanying the notice, there shall be filed with the Trustee:

(1) A Certificate of the Traffic Engineers stating whether, to the best of their knowledge, any Federal, State or other agency is then projecting or planning the construction, improvement, or acquisition of any highway or other facility which, in the opinion of the Traffic Engineers, may be materially competitive with any part of the Tollway System and the estimated date of completion of such highway or other facility, and setting forth estimates of Revenues, giving effect to the completion of any uncompleted Project at the time estimated by the Consulting Engineers, for the then current and each of the next ten (10) Fiscal Years or to and including the latest maturity of the Bonds, whichever is first to occur on the assumption that any such competing highway or other facility will be completed on such estimated date and will thereafter be in operation during the period covered by such estimates;

(2) A Certificate of the Consulting Engineers setting forth, for the years and on the assumptions specified in the Certificate of the Traffic Engineers delivered pursuant to

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clause (1) of subsection 4 of this Section 713, estimates of Operating Expenses and the Renewal and Replacement Deposit, giving effect to the completion of any uncompleted Project at the time estimated by the Consulting Engineers; and

(3) A Certificate of any Authorized Officer setting forth (i) the Aggregate Debt Service (excluding bond interest, the payment of which shall have been provided by payments or deposits out of Bond proceeds) for the next preceding eighteen months and the Junior Bond Revenue Requirement, during that period, (ii) Renewal and Replacement Deposits for the then current Fiscal Year, and estimated Renewal and Replacement Deposits for each of the next ten Fiscal Years or to and including the latest maturity of the Bonds, whichever is first to occur, (iii) the Aggregate Debt Service for the then current and each of the next ten Fiscal Years or to and including the latest maturity of the Senior Bonds, whichever is first to occur, and the Junior Bond Revenue Requirement, during that period, and (iv) the Net Revenues for the next preceding eighteen months; and stating (a) that Net Revenues have equaled at least 1.5 times the Aggregate Debt Service for any twelve (12) consecutive months of the preceding eighteen (18) months, (b) that the estimated Net Revenues (based on the certificates filed pursuant to clauses (1) and (2) of this subsection) for the then current and each of the next ten Fiscal Years or to and including the latest maturity of the Bonds, whichever is first to occur, will be not less than 1.5 times the Aggregate Debt Service for each such Fiscal Year, (c) if there shall be any uncompleted Project, that the Net Revenue Requirement for each such Fiscal Year includes the Aggregate Debt Service, as estimated by such Authorized Officer, with respect to all future Series of Senior Bonds which (based on estimates by the Consulting Engineers of Costs of Construction of such Project) will be required to complete such Project, (d) that the Authority is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Bonds or this Indenture and (e) that the amount in the Debt Reserve Account is at least equal to the Debt Reserve Requirement and the amount in the Junior Bond Debt Reserve Account is at least equal to any requirement for such Account established by the related Supplemental Indenture.

5. The Authority may increase toll rates at any time and from time to time upon written recommendation of the Traffic Engineers, as evidenced by their certificate filed by the Authority with the Trustee.

6. The Authority may also make any minor adjustment or reclassification of toll rates or establish special toll rates at any time and from time to time provided that such action (i) is concurred in by the Traffic Engineers and affects traffic of a character specified by the Traffic Engineers as accounting for less than ten percent (10%) of the Revenues, as evidenced by the certificate of the Traffic Engineers filed by the Authority with the Trustee, and (ii) the Authority estimates such actions in the aggregate during any Fiscal Year will not result in a reduction of Net Revenues in excess of one and one-half percent (1-1/2%) of Net Revenues for the current or any future Fiscal Year, as supported by certificates, filed by the Authority with the Trustee, of the Traffic Engineers setting forth estimated Revenues, and of the Consulting Engineers setting forth the estimated Operating Expenses.

7. The Authority may also make any changes in toll rates when there is filed with the Trustee a Certificate of the Traffic Engineers that the change in toll rates is not projected to result in

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a reduction of Revenues during any Fiscal Year in the next five (5) Fiscal Years or to and including the latest maturity of Senior Bonds, whichever is first to occur.

8. The Authority shall forthwith upon the adoption or revision of any schedule of tolls or revision file certified copies with the Trustee.

9. The failure in any Fiscal Year to comply with the covenant in subsection 2 of this Section shall not constitute an Event of Default if the Authority shall comply with subsection 3 of this Section; provided that if the Traffic Engineers (relying upon the certificate of the Consulting Engineers mentioned below in this subsection) shall be of the opinion, as shown by their certificate filed with the Trustee, that a schedule of tolls for the Tollway System which would provide funds to meet the requirements specified in subsection 2 of this Section is impracticable at that time, and the Authority, therefore, cannot comply with subsection 3 of this Section, then the Authority shall fix and establish such schedule of tolls as is recommended in such certificate by the Traffic Engineers in order to comply as nearly as practicable with subsection 2 of this Section, and in such event the failure of the Authority to comply with subsection 2 and subsection 3 of this Section shall not constitute an Event of Default. The Traffic Engineers' certificate shall be accompanied by a certificate of the Consulting Engineers setting forth estimates of payments for the then current and each of the next ten Fiscal Years to and including the latest maturity of the Bonds, whichever is first to occur, for Operating Expenses and Renewal and Replacement Deposits, giving effect to the estimated date of completion of construction of any uncompleted Project. The Trustee may, and upon the identical request of the Holders of not less than fifty percent (50%) in principal amount of the Senior Bonds Outstanding and upon being indemnified to its satisfaction shall, institute and prosecute in a court of competent jurisdiction or appropriate action to compel revision of the schedule of tolls and the fixing, charging and collection of tolls in accordance with the Act and any of the covenants contained in this Section 713.

Section 714. Classification of Tolls; Free Passage.

1. Tolls for using the Tollway System shall be classified in a reasonable way to cover all traffic.
2. The Authority shall not grant free passage for the use of the Tollway System, except (i) to doctors, officers and employees of the Authority, members of the Authority's advisory committee and elected executive officers of the State of Illinois whose offices are established by the Illinois Constitution when necessary or incidental to the conduct of the business of the Authority, (ii) to officers of the Illinois State Police Force in the performance of duties for the policing of the Tollway System, (iii) to fire department, police department and public or private ambulance service or rescue squad service vehicles while engaged in the performance of an emergency service or duty necessitating the use of the Tollway System.

Section 715. Maintenance of Insurance.

1. The Authority shall at all times maintain, to the extent reasonably obtainable, the following kinds and the following amounts of insurance, with such variations as shall reasonably be required to conform

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to applicable standard or customary insurance practice and subject to such exceptions and permissible deductibles as are ordinarily required:

- (1) Multi-risk insurance on the facilities of the Tollway System which are of an insurable nature and of the character usually insured by those operating similar facilities, covering direct physical loss or damage thereto from causes customarily insured against, in such amounts as the Consulting Engineers certify to be necessary or advisable to provide against such loss or damage and to protect the interests of the Authority and the Bondholders;
- (2) Use and occupancy insurance covering loss of Revenues by reason of necessary interruption, total or partial, in the use of facilities of the Tollway System, due to loss or damage to any such facility on which the Authority maintains such multi-risk insurance, in such amounts as the Consulting Engineers certify will provide income during the period of interruption equal to the amount of the loss of Net Revenues, computed on the basis of Net Revenues for the corresponding period during the preceding Fiscal Year, attributable to such loss or damage;
- (3) Public liability insurance covering injuries to persons and property in such amount as shall be determined by Resolution of the Authority to be adequate to insure the Authority against claims arising out of the construction, maintenance, reconstruction or operation of the facilities of the Tollway System;
- (4) During the construction or reconstruction of any portion of the facilities of the Tollway System, such insurance as is customarily carried by others with respect to similar structures used for similar purposes, provided that the Authority shall not be required to maintain any such insurance to the extent that such insurance is carried for the benefit of the Authority by contractors; and
- (5) Any additional or other insurance which the Consulting Engineers or the Authority consider is necessary or advisable to protect the interests of the Authority and the Bondholders.

2. Any such insurance shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the Authority.

3. Certifications by the Consulting Engineers made pursuant to this Section shall be in writing and filed with the Authority and the Trustee. The Authority shall file with the Trustee annually, within thirty (30) days after the close of each Fiscal Year, a certificate of an Authorized Officer (i) describing in reasonable detail the insurance and the self insurance programs, if any (hereinafter described) then in effect pursuant to this Section and that the Authority has complied in all respects with the requirements of this Section, and (ii) stating whether during such Fiscal Year any portion of the Tollway System had been damaged or destroyed and, if so, the amount of insurance covering such loss or damage and the Authority's estimated (or actual) costs of reconstruction or replacement thereof.

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4. Notwithstanding the foregoing provisions of this Section 715, pursuant to a resolution of the Authority's Board and with the approval of the Consulting Engineers, the Authority may adopt self insurance programs in lieu of maintaining any of the foregoing types of insurance; provided, however, that:

- (1) Each such self insurance program shall include an actuarially sound reserve fund, if any, as recommended by the Consulting Engineers, out of which claims are to be paid and the adequacy of such fund shall be evaluated not later than 90 days after the end of each insurance year.
- (2) Deficiencies in any such reserve fund shall be made up in accordance with the recommendations of the Consulting Engineers.
- (3) In the event a self insurance program is discontinued, the actuarial soundness of any related reserve fund, as recommended by the Consulting Engineers shall be maintained.
- (4) With respect to any workers' compensation self insurance program, any such reserve fund shall be held as required by law.

Section 716. Reconstruction; Application of Insurance Proceeds.

1. The proceeds of any insurance paid on account of damage or destruction of any portion of the Tollway System and the proceeds of any use or occupancy insurance, shall be held by the Authority and applied as follows:

(1) If any necessary portion of the Tollway System shall be damaged or destroyed, the Authority shall, as expeditiously as possible, continuously and diligently prosecute its reconstruction or replacement. The proceeds of any insurance paid on account of such damage or destruction, other than use and occupancy insurance, shall, to the extent necessary, be applied to the cost of such reconstruction or replacement. The proceeds of any insurance not so applied within twenty-four (24) months after receipt shall be applied as Revenues pursuant to Section 504 unless there shall have been sooner filed with the Trustee a certificate of an Authorized Officer stating the intention of the Authority to apply such proceeds to such reconstruction or replacement. The proceeds of any such insurance may be applied as Revenues pursuant to Section 504 prior to the end of the twenty-four (24) month period following receipt thereof, provided that there shall have been filed with the Trustee a certificate of an Authorized Officer certifying that the reconstruction or replacement for which such proceeds were received is completed and fully paid for.

(2) If the proceeds of insurance authorized by this Section to be applied to the reconstruction or replacement of any portion of the Tollway System are insufficient for such purpose, the deficiency may be supplied out of moneys in the Renewal and Replacement Account, the Improvement Account and the System Reserve Account to the extent, as shown by a certificate of the Consulting Engineers filed by the Authority with the Trustee, not needed to be reserved for the purposes of the Account from which such moneys have been withdrawn.

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- (3) The proceeds of insurance against physical loss of or damage to any Project for which a separate account is established in the Construction Fund, or of contractors' performance bonds with respect to such Project received during the period of construction of the Project, shall be paid into any separate account established in the Construction Fund for such Project. The proceeds of insurance against loss of or damage to the Tollway System or of contractors' performance bonds not required to be deposited into a separate account established in the Construction Fund shall be paid into the Renewal and Replacement Account.

- (4) The proceeds of any use and occupancy insurance shall be paid into the Revenue Fund.

2. Any amounts paid from a self insurance reserve fund pursuant to a self insurance program established pursuant to Section 715 hereof shall be deemed to be proceeds of the insurance in lieu of which such fund was established and such amounts shall be applied in the manner set forth in subsection 1 of this Section 716.

Section 717. Accounts and Reports.

1. The Authority shall keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Tollway System and the Funds and Sub-Accounts established by this Indenture, and which, together with all other books and financial records of the Authority, including insurance policies, shall at all reasonable times be available for the inspection of the Trustee and the Holders of not less than ten percent (10%) in principal amount of the Senior Bonds or ten percent (10%) in principal amount of the Junior Bonds then outstanding or their representatives duly authorized in writing. The Authority further covenants that it will keep an accurate record of the total cost of construction of the Tollway System, of the daily tolls and other Revenues collected, of the number and class of vehicles using the Tollway System, and of the application of such tolls and other Revenues.

2. The Authority further covenants that at least every three months it will cause to be filed with the Trustee and mailed to the Consulting Engineers, the Traffic Engineers, the Managing Underwriters and the Holders of any Bonds who within the prior two (2) years shall have filed with the Authority their names and addresses for such purpose, a report setting forth the following information with respect to (i) the preceding three calendar months and the corresponding months of the preceding Fiscal Year, and (ii) year-to-date information with respect to the current Fiscal Year and corresponding months of the preceding Fiscal Year:

- (1) The Revenues and expenditures or expenses of the Tollway System, appropriately classified within Funds and a statement of Net Revenues.
- (2) The number of vehicles in each class using the Tollway System, and
- (3) The revenues derived from each class of vehicles using the Tollway System.

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3. The Authority further covenants that not later than April 30 of each year it will cause an audit to be made of its books and accounts relating to the Tollway System for the Fiscal Year having just ended. Promptly thereafter reports of each such annual audit, signed by an Accountant, shall be filed with the Authority and the Trustee, and copies of such annual reports shall be mailed by the Authority to the Consulting Engineers, the Managing Underwriters and the Holders of any Bonds who within the prior two (2) years shall have filed with the Authority their names and addresses for such purpose. Each report shall state that the Accountant has examined the provisions of this Indenture relating to the receipt and application of funds and whether, in his opinion, the Authority has complied with such provisions. Each such annual audit report shall include the following information with respect to the most recent Fiscal Year and for the preceding Fiscal Year:

- (1) A statement of assets and liabilities relating to the Tollway System as of the end of such period,
- (2) A statement of net operating revenues,
- (3) A statement of changes in fund and account balances,
- (4) The details of all Bonds issued, paid, purchased, or redeemed, and
- (5) The investments of cash at the end of such period showing the respective amounts to the credit of each Fund, Account and Sub-Account held by any Depository, including the Trustee, and any security held therefor, and showing the details of any investments thereof.

The following schedules, which need not be audited, shall be included for informational purposes only in each such annual report:

- (1) The number of vehicles of each class using the Tollway System, and
- (2) The revenues derived from each class of vehicles that use the Tollway System.

4. The Authority further covenants that it will cause any additional reports or audits relating to the Tollway System to be made as required by law, and that, as often as may be reasonably requested, it will furnish to the Trustee, the Traffic Engineers and to the Consulting Engineers such other information concerning the Tollway System or the operation thereof as any of them reasonably request.

Section 718. Progress Reports. As soon as practicable after the issuance of the initial Series of Bonds for a Project, the Authority, with respect to Projects to be financed from the Construction Fund, shall prepare an estimated schedule for the acquisition of rights of way and for construction of such Project, and estimates of the amounts which will be required during each three-month period for estimated Costs of Construction of such Project. Thereafter, at least once in each three-month period during the construction of such Project, the Authority shall prepare a progress report as to the acquisition of real property for such Project and as to such construction, which shall include comparisons between the actual times elapsed and the actual costs, and the estimates of times required and costs to be incurred therefor which shall have been set forth

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in any prior progress report prepared for such Project. Copies of such progress reports shall be filed with the Trustee, the Consulting Engineers, the Managing Underwriters and the Holders of any Bonds who shall have filed their names and addresses with the Authority for such purposes.

Section 719. Security for Construction Contracts.

1. The Authority shall require all persons, firms or corporations with whom it may contract for construction in an amount exceeding \$50,000 to furnish bonds conditioned upon the satisfactory performance of the work contracted for and upon the payment by each contractor and subcontractor for all labor performed or materials furnished pursuant to such contract; or, in lieu thereof, to deposit with it, to insure completion and performance of the contract and the payment by each contractor and subcontractor for all labor performed or materials furnished pursuant to such contract, marketable securities satisfactory to the Authority having a market value equal to the amount of such contract.

2. Each construction contract shall also provide in substance that the Authority will retain at least ten percent (10%) of each partial payment thereunder until such payments, including retained amounts, shall aggregate at least fifty percent (50%) of the adjusted total contract amount; that after work under the contract has been substantially completed, the Authority may release retained amounts which the Authority shall determine by resolution are in excess of the amount reasonably required to be retained to secure performance of the remaining work and obligations thereunder in a manner satisfactory to the Authority; and that final payments on the contract will not be made until completion of the work thereunder to the satisfaction of and after approval thereof by the Authority.

Section 720. Arbitrage. The Authority shall not at any time permit any of the proceeds of the Bonds or any other funds of the Authority to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond interest on which would otherwise be excluded from gross income for federal income tax purposes to be an "arbitrage bond" as defined in Section 149 of the Code.

Section 721. Escrow Agreement. The Authority covenants and agrees to maintain the irrevocable trust fund in the escrow established pursuant to the escrow agreement dated as of December 1, 1985, relating to the bonds issued under the 1995 Bond Resolution in accordance with provisions of that resolution.

ARTICLE VIII

REMEDIES OF BONDHOLDERS

Section 801. Events of Default. Each of the following events is declared an "Event of Default" with respect to Senior Bonds.

- (1) if a default shall occur in the due and punctual payment of the principal or Redemption Price of any Senior Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise, provided, however, that the failure to retire the entire scheduled

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amount of Bonds through the application of any Sinking Fund Installment shall not constitute an Event of Default as provided in Section 507;

- (2) if a default shall occur in the due and punctual payment of interest on any Senior Bonds, when and as such interest shall become due and payable;

- (3) if a default shall occur in the performance or observance by the Authority of the covenants, agreements and conditions contained in Section 713 (except as provided in subsection 9 of that Section);

- (4) receipt of a written declaration of an Event of Default by Holders of not less than ten percent (10%) of the principal amount of the Senior Bonds (or at least fifty percent (50%) of the principal amount of any series of Senior Bonds), upon receipt of the Trustee of a notice of the acceleration of the maturity of any Junior Bonds as provided in Section 205;

- (5) if a default shall occur in the performance or observance by the Authority of any other of the covenants, agreements or conditions contained in this Indenture or in any Bonds, and such default shall continue for a period of sixty (60) days after written notice of the default to the Authority by the Trustee or after written notice of the default to the Authority and to the Trustee by the Holders of not less than twenty percent (20%) in principal amount of the Senior Bonds Outstanding;

- (6) if the Authority shall file a petition seeking a composition of indebtedness under the Federal bankruptcy laws, or under any other applicable law or statute of the United States of America or of the State of Illinois;

- (7) if any part of the Tollway System shall be damaged or destroyed to the extent of impairing its efficient operation and materially and adversely affecting the Revenues, and the Authority shall not have taken reasonable steps to promptly repair, replace, reconstruct or provide a reasonable substitute for the damaged or destroyed part of the Tollway System (whether such failure promptly to repair, replace or reconstruct the same shall be due to the impracticability of such repair, replacement or reconstruction or to lack of funds therefor or for any reason); or

- (8) if an order or decree shall be entered, with the consent or acquiescence of the Authority, appointing a receiver or receivers of the Tollway System, or any part of it, or of the tolls or other revenues therefrom; or if such order or decree entered without the consent or acquiescence of the Authority shall not be vacated or stayed within ninety (90) days after its entry;

then, and in each and every such case, so long as such Event of Default shall not have been remedied, unless the principal of all the Senior Bonds shall have already become due and payable, either the Trustee (by notice in writing to the Authority), or the Holders of not less than a majority in aggregate principal amount of the Senior Bonds Outstanding (by notice in writing to the Authority and the

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Trustee), may declare the principal of all the Senior Bonds then Outstanding, and the interest accrued on them, to be due and payable immediately. Upon any such declaration the Senior Bonds shall become and be immediately due and payable. The right of the Trustee or of the Holders of not less than a majority in principal amount of the Senior Bonds to make any such declaration, however, shall be subject to the condition that if, at any time after such declaration, but before the Senior Bonds shall have matured by their terms, all overdue installments of interest upon the Senior Bonds, together with interest on such overdue installments of interest to the extent permitted by law and the reasonable and proper charges and expenses of the Trustee, and all other sums then payable by the Authority under this Indenture (except the principal of, and interest accrued since the next preceding interest date on, the Senior Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the Authority or provision satisfactory to the Trustee shall be made for such payment, and all defaults under the Senior Bonds or under this Indenture (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be made good or be secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Holders of a majority in principal amount of Senior Bonds Outstanding, by written notice to the Authority and to the Trustee, may rescind such declaration and annul such default in its entirety, or, if the Trustee shall have acted itself, and if there shall not have been theretofore delivered to the Trustee written direction to the contrary by the Holders of a majority in principal amount of the Senior Bonds then Outstanding, then any such declaration shall *ipso facto* be deemed to be annulled, but no such rescission and annulment shall extend to or affect any subsequent default or impair or exhaust any resulting right or power.

Section 802. Accounting and Examination of Records After Default.

1. The Authority covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Authority and all other records relating to the Tollway System shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys, including the engineer or firm of engineers appointed pursuant to Section 803.

2. The Authority covenants that if an Event of Default shall have happened and shall not have been remedied, the Authority, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds held by the Authority pursuant to the terms of this Indenture for such period as shall be stated in such demand.

Section 803. Application of Revenues and Other Moneys After Default.

1. The Authority covenants that if an Event of Default shall happen and shall not have been remedied, the Authority, upon demand of the Trustee, shall pay over or cause to be paid over to the Trustee (i) forthwith, all moneys, securities and funds then held by the Authority in any Fund, Account, Sub-Account or revolving fund pursuant to the terms of this Indenture, and (ii) all Revenues as promptly as practicable after receipt thereof.

2. During the continuance of an Event of Default, the Trustee shall apply such moneys, securities, funds and Revenues and the income therefrom as follows and in the following order:

(1) to the payment of the reasonable and proper charges and expenses of the Trustee, including the reasonable expenses of counsel employed by it, and of any engineer or firm of engineers selected by the Trustee pursuant to this Article;

(2) to the payment of the amounts required for reasonable and necessary Operating Expenses and for the reasonable renewals, repairs and replacements of the Tollway System necessary to prevent loss of Revenues, as certified to the Trustee by an independent engineer or firm of engineers of recognized standing (who may be an engineer or firm of engineers retains by the Authority for other purposes) selected by the Trustee. For this purpose the books of record and accounts of the Authority relating to the Tollway System shall at all times be subject to the inspection of such engineer or firm of engineers during the continuance of such Event of Default;

(3) to the payment of the principal of, Redemption Price, and interest on the Bonds then due, as follows:

(a) unless the principal of all the Senior Bonds shall have become or have been declared due and payable,

First: To the payment to the persons entitled thereto of all installments of interest then due on the Senior Bonds in the order of the maturity of such installments, together with accrued and unpaid interest on the Senior Bonds theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference;

Second: To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Senior Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amounts available shall not be sufficient to pay in full all the Senior Bonds due on any date, then to their payment ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference;

Third: To the payment to the persons entitled thereto of all installments of interest then due on the Junior Bonds in the order of priority as provided in the Supplemental Indentures authorizing Junior Bonds, together with accrued and unpaid interest on the Junior Bonds theretofore called for redemption;

Fourth: To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Junior Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Junior Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference;

(b) if the principal of all the Senior Bonds shall have become or have been declared due and payable,

First: To the payment of the principal and interest then due and unpaid upon the Senior Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Senior Bonds over any other Senior Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference; and

Second: To the payment of the principal and interest then due and unpaid upon the Junior Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Junior Bond over any other Junior Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference.

(3) If and whenever all overdue installments of principal and Redemption Price of and interest on all Senior Bonds, together with the reasonable and proper charges and expenses of the Trustee, and all other overdue sums payable by the Authority under this Indenture, including the overdue principal and Redemption Price of and accrued unpaid interest on all Senior Bonds held by or for the account of the Authority, or provision satisfactory to the Trustee shall be made for such payment, and all defaults under this Indenture or the Senior Bonds shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over to the Authority all moneys, securities, and funds then remaining unexpended in the hands of the Trustee (except moneys, securities, funds deposited or pledged, or required by the terms of this Indenture to be deposited or pledged, with the Trustee), and thereupon the Authority, the Trustee and the Bondholders shall be restored, respectively, to their former positions and rights under this Indenture. No such payment over to the Authority by the Trustee nor such restoration of the Authority and the Trustee to their former positions and rights shall extend to or affect any subsequent default under this Indenture or impair any right consequent thereon.

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Section 804. Proceedings Brought by Trustee.

1. If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Holders of not less than twenty percent (20%) in principal amount of the Senior Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Holders of the Bonds under this Indenture forthwith by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Indenture.

2. All rights of action under this Indenture may be enforced by the Trustee without the possession of any of the Bonds or coupons or the production thereof in any suit or other proceeding, and any such suit or other proceeding instituted by the Trustee shall be brought in its name.

3. All actions against the Authority under this Indenture shall be brought in a state or federal court located in the State of Illinois.

4. The Holders of not less than a majority in principal amount of the Senior Bonds at the time Outstanding may direct the time, method and place of conducting any proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture or for the enforcement of any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Bondholders not parties to such direction.

5. Upon commencing any suit at law or in equity or upon commencement of other judicial proceedings by the Trustee to enforce any right under this Indenture, the Trustee shall be entitled to exercise any and all rights and powers conferred in this Indenture and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

6. Regardless of the happening of an Event of Default, the Trustee shall have power, but unless requested in writing by the Holders of a majority in principal amount of the Senior Bonds then Outstanding, and furnished with reasonable security and indemnity, shall be under no obligation, to institute and maintain such suits and proceedings as may be necessary or expedient to prevent any impairment of the security under this Indenture and to preserve or protect its interests and the interest of the Bondholders.

Section 805. Restriction on Bondholders' Action.

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1. No Holder of any Bond shall have any right to institute any suit or proceeding at law or in equity for the enforcement or violation of any provision of this Indenture or the execution of any trust under this Indenture or for any remedy under this Indenture, unless such Holder shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Article, and the Holders of at least a majority in principal amount of the Senior Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this Indenture or by the Act or by the laws of Illinois or to institute such suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred in or by the suit or proceedings, and the Trustee shall have refused or failed to comply with such request within sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by such action to affect, disturb or prejudice the pledge created by this Indenture, or to enforce any right under this Indenture, except in the manner herein provided; and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner provided in this Indenture and for the benefit of all Holders of the Outstanding Bonds in the priority as provided in this Indenture and, for Junior Bonds, as provided in Supplemental Indentures authorizing them.

2. Nothing in this Indenture or in the Bonds or in the coupons contained shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay at the respective dates of maturity and places therein expressed the principal of and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of his Bond.

Section 806. Remedies Not Exclusive. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each remedy shall be cumulative and shall be in addition to every other remedy given under this Indenture or existing at law or in equity or by statute on or after the date of the execution and delivery of this Indenture.

Section 807. Effect of Waiver and Other Circumstances.

1. No delay or omission of the Trustee or any Bondholder to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such default or be an acquiescence therein.

2. Prior to any acceleration of maturity of the Senior Bonds under Section 801, the Holders of not less than two-thirds in principal amount of the Senior Bonds at the time Outstanding, or their attorneys-in-fact duly authorized may on behalf of the Holders of all of the Senior Bonds waive any past default under this Indenture and its consequences, except a default in the payment of interest on or principal or Redemption Price of any of the Senior Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

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Section 808. Notices of Default and Insufficiency of Revenues. The Trustee shall promptly mail to registered Holders of Bonds, the Managing Underwriters and to all Bondholders who shall have filed their names and addresses with the Trustee for such purpose, written notice of the occurrence of any Event of Default or of the receipt by the Trustee of any notice under Section 205 of the acceleration of any Junior Bond. If in any Fiscal Year the Net Revenues shall be insufficient to comply with the provisions of subsection 2 of Section 713, the Trustee, on or before the thirtieth (30th) day after receipt of the annual audit, shall mail to such registered Holders, Managing Underwriters and Bondholders written notice of such insufficiency.

ARTICLE IX

CONCERNING THE FIDUCIARIES

Section 901. Trustee; Appointment and Acceptance of Duties. The Trustee hereby accepts and agrees to the trusts hereby created, but only upon the additional terms set forth in this Article, to all of which the Authority agrees and the respective Holders of the Bonds, by their purchase and acceptance thereof agree. Except during the continuance of an Event of Default, the Trustee undertakes such duties and only such duties as are specifically set forth in this Indenture.

Section 902. Paying Agents; Appointment and Acceptance of Duties.

1. The First National Bank of Chicago in Chicago, Illinois and First Chicago Trust Company of New York in New York, New York are hereby appointed co-Paying Agents for the 1985 Series Bonds. The Authority shall appoint one or more Paying Agents for the Bonds of each other Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 914 for a successor Paying Agent. The Trustee may be appointed a Paying Agent.

2. The First National Bank of Chicago hereby accepts the duties and obligations imposed upon it as Paying Agent by this Indenture. Each other Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal or corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the interest on coupon Bonds and principal or Redemption Price of the Bonds.

Section 903. Registrar; Appointment and Acceptance of Duties.

1. The First National Bank of Chicago is hereby appointed Registrar for the 1985 Series Bonds. The Authority shall appoint a Registrar for each other Series of Bonds. Each Registrar shall have the qualifications set forth in Section 915 for a successor Registrar. The Trustee or any Paying Agent may be appointed a Registrar.

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2. Each Registrar shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

Section 904. Responsibilities of Fiduciaries.

1. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Authority and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of this Indenture or of any Bonds or coupons issued hereunder or as to the security afforded by this Indenture, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for any representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the Authority or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of subsection 2 of this Section, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence or misconduct.

2. In case an Event of Default has occurred and has not been remedied, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Indenture relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section.

Section 905. Evidence on Which Fiduciaries May Act.

1. Each Fiduciary shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion (including Counsel's Opinion), bond or other paper or document furnished to it pursuant to and conforming to the requirements of this Indenture, and believed by it to be genuine and to have been signed or presented by the proper party or parties.
2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture, such matter (unless this Indenture specifically requires other evidence thereof) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer, but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable.
3. Except as otherwise expressly provided in this Indenture, any request, order, notice or other direction required or permitted to be furnished by the Authority to any Fiduciary shall be sufficiently executed if signed by an Authorized Officer.

Section 906. Compensation. Unless otherwise determined by contract between the Authority and each Fiduciary, the Authority shall pay to each Fiduciary from time to time reasonable compensation determined by the Authority for all services rendered under this Indenture. Subject to the provisions of Section

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904, the Authority further agrees to indemnify and save each Fiduciary harmless against any loss, liability, cost or expense, including counsel fees, which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence or misconduct.

Section 907. Certain Permitted Acts. Any Fiduciary may become the owner of any Bonds and coupons, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

Section 908. Resignation of Trustee. The Trustee may at any time resign and be discharged of the duties and obligations imposed upon it by this Indenture by giving not less than sixty (60) days' written notice to the Authority, the Treasurer, the Depositaries, and the other Fiduciaries, and publishing notice thereof, specifying the date when such resignation shall take effect, once in each week for two successive calendar weeks in an Authorized Newspaper, and such resignation shall take effect upon the day specified in such notice but only if a successor shall have been appointed by the Authority (with the Treasurer) or the Bondholders as provided in Section 910, in which event such resignation shall take effect immediately on the appointment of such successor whether or not the date specified for such resignation to take effect has arrived. If a successor Trustee shall not have been appointed within a period of ninety (90) days following the giving of notice, then the Trustee shall be authorized to petition any court of competent jurisdiction to appoint a successor Trustee as provided in Section 910 hereof.

Section 909. Removal of Trustee. The Trustee may be removed at any time by an instrument in writing delivered to the Trustee and signed by the Authority and the Treasurer; provided, however, that if an Event of Default shall have occurred and be continuing, the Trustee may be so removed by the Authority and the Treasurer only with the written concurrence of the Holders of a majority in principal amount of Senior Bonds and the Holders of a majority in principal amount of Junior Bonds Outstanding. The Trustee may be removed at any time by the Holders of a majority in principal amount of the Senior Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, by an instrument or concurrent instruments in writing signed and duly acknowledged by such Holders or their attorneys-in-fact duly authorized, and delivered to the Authority. Copies of each such instrument shall be delivered by the Authority to each Fiduciary.

Section 910. Appointment of Successor Trustee.

1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer or court shall take charge or control of the Trustee, or of its property or affairs, the Authority (with the Treasurer) shall appoint a successor Trustee. The Authority shall cause notice of any such appointment by it made to be published in an Authorized Newspaper and shall mail a copy thereof to the Managing Underwriters.

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At any time within one (1) year after such appointment, the Holders of a majority in principal amount of Senior Bonds and the Holders of a majority in principal amount of Junior Bonds then Outstanding, by an instrument or concurrent instruments in writing, signed by such Bondholders or their attorneys-in-fact thereunder duly authorized and filed with the Authority, may appoint a successor Trustee which shall supersede any Trustee theretofore appointed by the Authority. Photostatic copies of each such instrument shall be delivered promptly by the Authority to the predecessor Trustee and to the Trustee so appointed by the Bondholders.

2. If no appointment of a Trustee shall be made, either by the Authority or by the Bondholders, pursuant to the foregoing provisions of this Section 910, the Holder of any Bond Outstanding hereunder may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

3. Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company or national banking association, doing business and having its principal corporate trust office in the State of Illinois, and having capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

Section 911. Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed under this Indenture shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Authority, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, but the predecessor Trustee shall nevertheless, on the written request of the Authority or of the successor Trustee, execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all its right, title and interest in and to any property held by it under this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such moneys, estates, properties, rights, powers and duties, such deed, conveyance or instrument shall be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agents of its appointment as Trustee.

Section 912. Merger or Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which all or substantially all of the corporate trust business of any Fiduciary may be sold or transferred, shall be the successor to such Fiduciary and be bound to the obligations and duties of such Fiduciary hereunder without the execution or filing of any paper or the performance of any further act, unless such successor delivers written notice of its resignation pursuant to the provisions of this Article; provided, however, that such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all the duties imposed upon it by this Indenture.

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Section 913. Adoption of Authentication. In case any of the Bonds contemplated to be issued under this Indenture shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee or in its own name.

Section 914. Resignation or Removal of Paying Agent and Appointment of Successor.

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations imposed upon it by this Indenture by giving at least 60 days' written notice to the Authority and the other Fiduciaries. Any Paying Agent may be removed at any time by an instrument signed by an Authorized Officer and filed with such Paying Agent and the Trustee. Any successor Paying Agent shall be appointed by the Authority and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock and surplus aggregating at least \$50,000,000, willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee and shall be subject to audit of all of its books, records and accounts with respect to the Bonds. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

Section 915. Resignation or Removal of Registrar and Appointment of Successor.

1. Any Registrar may at any time resign and be discharged of the duties and obligations imposed upon it by this Indenture by giving at least 60 days' written notice to the Authority and the other Fiduciaries. Any Registrar may be removed at any time by an instrument signed by an Authorized Officer and filed with such Registrar and the Trustee. Any successor Registrar shall be appointed by the Authority with the approval of the Trustee and shall be a bank, trust company or national banking association doing business and having an office in the State of Illinois or in the Borough of Manhattan, in the City and State of New York, if there be such a bank, trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

2. In the event of the resignation or removal of any Registrar, such Registrar shall deliver all books, records and other property including the bond registry of the Authority to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Registrar, the Trustee shall act as such Registrar.

Section 916. Trustee Not Deemed To Have Notice of Default. The Trustee shall not be deemed to have notice of any default under this Indenture except a default under Section 801(1) or (2) or the failure of the Authority to file with the Trustee any document required by this Indenture unless

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any officer in its corporate trust office shall have actual knowledge thereof or the Trustee shall be specifically notified in writing of such default by the Authority or by the Holders of not less than twenty percent (20%) in principal amount of the Senior Bonds Outstanding; and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the corporate trust office of the Trustee.

Section 917. Quarterly Report By Trustee and Depositaries. Within seven (7) days after the end of each calendar quarter, the Trustee, any Paying Agent and each Depositary shall prepare a written report for each Fund, Account and Sub-Account held by it pursuant to the provisions of this Indenture. Such report shall set out the receipts and disbursements, both principal and income, and shall list the Investment Securities held by the Trustee and each Depositary at the end of the quarter. A copy of each such report shall be furnished to the Authority and any persons designated by the Authority.

In addition, the Trustee, any Paying Agent and each Depositary shall, at any time when requested, including, without limitation, any request at the time of the resignation of the Trustee, any Paying Agent or any Depositary, furnish to the Authority and any persons designated by the Authority a report of the amount of moneys, including Investment Securities, held in each Fund, Account or Sub-Account by the Trustee and each Depositary. For purposes of this certification, the Investment Securities in each such Fund, Account and Sub-Account shall be treated as having a value equal to their aggregate market value as of the date of the request.

ARTICLE X

SUPPLEMENTAL INDENTURES

Section 1001. Supplemental Indentures Not Requiring Consent of Bondholders. The Authority and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into a Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (1) To authorize Senior Bonds or Junior Bonds and to specify, determine or authorize any matters and things concerning any such Bonds;
- (2) To dose this Indenture against, or impose additional limitations or restrictions on, the issuance of Bonds, or of other notes, bonds, obligations or evidences of indebtedness;
- (3) To impose additional covenants or agreements to be observed by the Authority;
- (4) To impose other limitations or restrictions upon the Authority;
- (5) To surrender any right, power or privilege reserved to or conferred upon the Authority by this Indenture;

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- (6) To confirm, as further assurance, any pledge of or lien upon the Revenues or any other moneys, securities or funds;

- (7) To cure any ambiguity, omission or defect in this Indenture;

- (8) To provide for the appointment of any successor Fiduciary; and

- (9) To make any other change which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Bondholders.

Section 1002. Supplemental Indentures Effective Upon Consent of Bondholders. Any Supplemental Indenture not effective in accordance with Section 1001 shall take effect only if permitted and approved and in the manner prescribed by Article XI.

Section 1003. Filing of Counsel's Opinion. Each Supplemental Indenture described in Section 1001 shall be accompanied, when filed with the Trustee, by a Counsel's Opinion to the effect that such Supplemental Indenture has been duly authorized by the Authority in accordance with the provisions of this Indenture, is authorized or permitted by this Indenture and, when executed and delivered, will be valid and binding upon the Authority, the Bondholders and the Trustee.

ARTICLE XI

AMENDMENTS

Section 1101. Mailing and Publication.

1. Any provision in this Article for the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed by first class mail, postage prepaid or delivered only (a) to each registered owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority kept at the principal office of the Registrar, (b) to each Holder of any Bond payable to bearer who shall have filed with the Trustee within two years preceding such mailing an address for notices, and (c) to the Trustee.
2. Any provision in this Article for publication of a notice or other matter shall require the publication thereof only in an Authorized Newspaper.

[Form of Section 1102 to remain effective until such time as the Bonds of the Authority issued prior to the adoption of the 1996 Supplemental Indenture remain Outstanding.]

Section 1102. Powers of Amendment. Except for Supplemental Indentures described in Section 1001, any modification or amendment of this Indenture and of the rights and obligations of the Authority and of the Holders of the Bonds and coupons hereunder, in any particular, may be made by a Supplemental Indenture with the written consent given as provided in Section 1103, (i) of the Holders of at least two-thirds

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in principal amount of the Priority Bonds and of at least two-thirds in principal amount of the Refunding Bonds Outstanding at the time such consent is given, and (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least two-thirds in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bonds, or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this Indenture if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not the rights of the Holders of Bonds of any particular Series or maturity would be adversely affected or diminished by any such modification or amendment, and its determination shall be binding and conclusive on the Authority and all Holders of the Bonds.

[Form of Section 1102 to become effective at such time as no Bonds of the Authority issued prior to the adoption of the 1996 Supplemental Indenture remain Outstanding.]

Section 1102. Powers of Amendment With Consent of Bondholders.

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1. Except for Supplemental Indentures described in Section 1001, any modification or amendment of this Indenture and of the rights and obligations of the Authority and of the Holders of the Bonds in any particular, other than as provided in subsection 2 of this Section, may be made by a Supplemental Indenture with the written consent of Holders as provided in this Section. Until such time as no Bonds issued prior to the adoption of the 1996 Amended Supplemental Indenture remain Outstanding, the written consent, given as provided in Section 1103, (i) of the Holders of at least two-thirds in principal amount of the Priority Bonds and of at least two-thirds in principal amount of the Refunding Bonds, in each case Outstanding at the time such consent is given and (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least two-thirds in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given shall be required for modifications and amendments under this subsection 1. At such time as no Bonds issued prior to the adoption of the 1996 Amended Supplemental Indenture remain Outstanding, the written consent, given as provided in Section 1103, (i) of the Holders of at least a majority in principal amount of Senior Bonds, and of the Holders of at least a majority in principal amount of the Junior Bonds, in each case Outstanding at the time consent is given, or (ii) in case less than all of the Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in principal amount of the Senior Bonds of all Series then Outstanding which are so affected, and a majority in principal amount of the Junior Bonds of all Series then Outstanding which are so affected, shall be required for modification and amendments under this subsection 1. However, if any modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series and maturity remain Outstanding, the consent of the Holders of those Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

2. No modification or amendment of this Indenture shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bonds, or of any installment of interest on any Outstanding Bonds or a reduction in the principal amount or the Redemption Price of or in the rate of interest on any Outstanding Bonds without the consent of the Holder of each such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to affect any such modification or amendment, or shall change or modify any of the rights or obligations of any fiduciary without its written assent.

3. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this Indenture if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not the rights of the Holders of Bonds of any particular Series or maturity would be adversely affected or diminished by any such modification or amendment, and its determination shall be binding and conclusive on the Authority and all Holders of the Bonds.

[Form of Section 1102 to remain effective until such time as the Bonds of the Authority issued prior to the adoption of the 1996 Supplemental Indenture remain Outstanding.]

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Section 1103. Consent of Bondholders. The Authority may at any time authorize the execution and delivery of a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 1102, to take effect when and as provided in this Section. Upon the authorization of such Supplemental Indenture, a copy thereof shall be delivered to and held by the Trustee for the inspection of the Bondholders. A copy of such Supplemental Indenture (or summary thereof or reference thereto in form approved by the Trustee) together with a request to Bondholders for their consent thereto in form satisfactory to the Trustee, (a) shall be mailed by the Authority to the Bondholders and, (b) if there are Outstanding Bonds of any Series which are not in fully registered form and which would be affected by such Supplemental Indenture while such Bonds remain Outstanding, shall be published at least once in an Authorized Newspaper, but failure to mail such copy and request shall not affect the validity of such Supplemental Indenture when consented to as in this Section provided. Such Supplemental Indenture shall not be effective unless and until, and shall take effect in accordance with its terms when, (a) there shall have been filed with the Trustee (i) the written consents of the Holders of the required principal amount of Outstanding Bonds, and (ii) a Counsel's Opinion stating that the execution and delivery of such Supplemental Indenture has been duly authorized by the Authority in accordance with the provisions of this Indenture, is authorized or permitted by this Indenture and, when effective, will be valid and binding upon the Authority, the Bondholders and the Trustee, and (b) a notice shall have been published as hereinafter in this Section provided. Any such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given. A certificate or certificates by the Trustee filed with the Authority that it has determined such proof and that such proof is sufficient under the provisions of Section 1202 shall be conclusive that consents have been given by the Holders of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange thereof whether or not such subsequent Holder has notice thereof; provided, however, that any consent may be revoked by any Holder of such Bonds by filing with the Trustee, prior to the time when the Trustee's written statement hereafter in this Section referred to is filed, a written revocation, with proof that such Bonds are held by the signer of such revocation. The fact that a consent has not been revoked may be proved by a certificate of the Trustee to the effect that no revocation thereof is on file with it. Any consent, or revocation thereof, may be delivered or filed prior to any mailing or publication required by this Article and shall not be deemed ineffective by reason of such prior delivery or filing. Within thirty (30) days of any date on which the consents on file with the Trustee and the Trustee's written statement shall be sufficient under this Section, the Trustee shall make and file with the Authority and the Trustee a written statement that the consents of the Holders of the required principal amount of Outstanding Bonds have been filed with the Trustee. Such written statement shall be conclusive that such consents have been so filed. Any time thereafter notice, stating in substance that the Supplemental Indenture has been consented to by the Holders of the required principal amount of Outstanding Bonds and will be effective as provided in this Section, shall be given (a) by mailing to the Bondholders but failure to mail such notice or any defect therein shall not prevent such Supplemental Indenture from becoming effective and binding) and, (b) if there are Outstanding any Bonds of any Series which are not in fully registered form and which would be affected by such Supplemental Indenture while such Bonds remain Outstanding, by publication at least once within sixty (60) days after such statement of the Trustee has been so filed. The Trustee shall file with the Authority proof of the mailing and publication of such notice. A record, consisting of the papers required or permitted by this Section to be filed by or with the Trustee, shall be proof of the matters therein stated.

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[Form of Section 1102 to become effective at such time as no Bonds of the Authority issued prior to the adoption of the 1986 Supplemental Indenture remain Outstanding.]

Section 1103. Method of Consent of Bondholders.

1. The Authority may at any time authorize the execution and delivery of a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 1102, to take effect when and as provided in this Section. Upon the authorization of such Supplemental Indenture, a copy of it shall be delivered to and held by the Trustee for the inspection of the Bondholders. A copy of the Supplemental Indenture (or a summary of it or reference to it in a form approved by the Trustee) together with a request to Bondholders for their consent in a form satisfactory to the Trustee, shall be mailed by the Authority to the Bondholders. Failure to mail such a copy and request shall not affect the validity of the Supplemental Indenture when consented to as provided in this Section. The Supplemental Indenture shall not be effective unless and until, and shall take effect in accordance with its terms when there shall have been filed with the Trustee (i) the written consents of the Holders of the required principal amount of Outstanding Bonds, and (ii) a Counsel's Opinion stating that the execution and delivery of such Supplemental Indenture has been duly authorized by the Authority in accordance with the provisions of this Indenture, is authorized or permitted by this Indenture and, when effective, will be valid and binding upon the Authority, the Bondholders and the Trustee.
2. Any consent to an amendment or modification shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange for them whether or not such subsequent Holder has notice of the consent. However, unless a consent states that it is irrevocable, any consent may be revoked by any Holder of such Bonds by filing with the Trustee, prior to the time when the Trustee's written statement referred to below in this Section is filed, a written revocation. The fact that a consent has not been revoked may be proved by a certificate of the Trustee to the effect that no such revocation is on file with it. Any consent, or revocation, may be delivered or filed prior to any mailing required by this Article and shall not be deemed ineffective by reason of such prior delivery or filing.
3. Notwithstanding any other provision of this Article, in issuing any Bonds the Authority may consent to any modification or amendment to this Indenture that may be adopted by consent of required percentages of Holders of Bonds. That consent shall, upon the issuance of those Bonds, constitute the irrevocable consent of the Holders of those Bonds. Those Bonds shall not be deemed not to be affected by the modification or amendment by reason of their issuance after the Authority's consent to such modification or amendment.
4. Within thirty (30) days of any date on which the consents on file with the Trustee and not previously revoked as provided in subsection 2 shall be sufficient under this Section, the Trustee shall make and file with the Authority and the Trustee a written statement that the consents of the Holders of the required principal amount of Outstanding Bonds have been filed with the Trustee. Such written statement shall be conclusive that such consents have been so filed. Any time after the filing of the written statement, notice stating in substance that the Supplemental Indenture has been consented to by the Holders of the required

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principal amount of Outstanding Bonds and will be effective as provided in this Section, shall be given (a) by mailing to the Bondholders. Failure to mail such notice or any defect in the mailing shall not prevent such Supplemental Indenture from becoming effective and binding. The Trustee shall file with the Authority proof of the mailing of such notice. A record, consisting of the papers required or permitted by this Section to be filed by or with the Trustee, shall be proof of the matters stated in that record.

Section 1104. Modifications by Unanimous Action. The Indenture and the rights and obligations of the Authority and of the Holders of the Bonds and coupons thereunder may be modified or amended in any respect by a Supplemental Indenture effecting such modification or amendment and with the consents of the Holders of all the Bonds then Outstanding, each such consent to be accompanied by proof of the holding at the date of such consent of the Bonds with respect to which such consent is given. Such Supplemental Indenture shall take effect upon the filing (a) with the Trustee of (i) a copy thereof, (ii) such consents and accompanying proofs and (iii) the Counsel's Opinion referred to in Section 1103 and (b) with the Authority of the Trustee's written statement that the consents of the Holders of all Outstanding Bonds have been filed with it. No mailing or publication of any Supplemental Indenture (or reference thereto or summary thereof) or of any request or notice shall be required. No such modification or amendment, however, shall change or modify any of the rights or obligations of any Fiduciary without its Written assent thereto.

Section 1105. Exclusion of Bonds. Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding and shall be excluded for the purpose of any calculation required by this Article. At the time of any consent or other action taken under this Article, the Authority shall furnish the Trustee a certificate of an Authorized Officer, upon which the Trustee may rely, identifying all Bonds so to be excluded.

Section 1106. Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article provided may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to such action, and upon demand of the Holder of any Bond Outstanding at such effective date and presentation of his Bond to the Trustee, suitable notation shall be made on such Bond by the Trustee as to any such action. If the Authority or the Trustee shall so determine, new Bonds so modified which, in the opinion of the Trustee and the Authority, conform to such action may be prepared, authenticated and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for such Bond then Outstanding.

ARTICLE XII

MISCELLANEOUS

Section 1201. Defeasance.

1. If the Authority shall pay or cause to be paid or there shall otherwise be paid, to the Holders of all Bonds and coupons the principal or Redemption Price, if applicable, and interest due or to become due

thereon, at the times and in the manner stipulated therein and in this Indenture, then the pledge of any Revenues and other moneys and securities pledged under this Indenture and all covenants, agreements and other obligations of the Authority to the Bondholders, shall thereupon be discharged and satisfied. In such event, the Trustee, upon request of the Authority, shall provide an accounting of the assets managed by the Trustee to be prepared and filed with the Authority for any year or part thereof requested, and shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries shall pay over or deliver to the Authority all moneys and securities held by them pursuant to this Indenture which are not required for the payment of Bonds or coupons not previously surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Outstanding Bonds of a particular Series or maturity within a Series and the coupons appertaining thereto the principal or Redemption Price, if applicable, thereof and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Indenture, such Bonds shall cease to be entitled to any lien, benefit or security under this Indenture, and all covenants, agreements and obligations of the Authority to the Holders of such Bonds and to the Trustee shall thereupon be discharged and satisfied.

2. Bonds or coupons or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust by the Escrow Agent at or prior to their maturity or redemption date shall be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section if the Authority shall have delivered to or deposited with the Escrow Agent (a) irrevocable instructions to pay or redeem all of said Bonds in specified amounts no less than the respective amounts of, and on specified dates no later than the respective due dates of, their Principal Installments, (b) irrevocable instructions to publish or mail the required notice of redemption of any Bonds so to be redeemed, (c) either moneys in an amount which shall be sufficient, or obligations described in clause (i) of the definition of Federal Securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to each specified redemption date or maturity date thereof, as the case may be, and (d) if any of said Bonds are not to be redeemed within the next succeeding sixty (60) days, irrevocable instructions to publish, as soon as practicable in an Authorized Newspaper, and to mail, at the time of such first publication, to all registered Holders of said Bonds a notice to the Holders of such Bonds and coupons that such deposit has been made with the Trustee and that said Bonds and coupons are deemed to have been paid in accordance with this Section and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price, if applicable, of said Bonds; provided, however, that no such publication of notice of said deposit shall be required if all of said Bonds are registered. The Federal Securities and moneys deposited with the Trustee pursuant to this Section shall be held in trust for the payment of the principal or Redemption Price, if applicable, and interest on said Bonds. No payments of principal of any such Federal Securities or interest thereon shall be withdrawn or used for any purpose other than the payment of such principal or Redemption Price of, or interest on, said Bonds unless after such withdrawal the amount held by the Trustee and interest to accrue on Federal Securities so held shall be sufficient to provide fully for the payment of the principal or Redemption Price and interest on such Bonds, at maturity or upon redemption, as the case may be.

3. Amounts deposited with the Trustee for the payment of Principal Installments of and interest on any Bonds deemed to be paid pursuant to this Section 1201, if so directed by the Authority, shall be applied by the Trustee to the purchase of such Bonds in accordance with this subsection. Bonds for which a redemption date has been established may be purchased on or prior to the forty-fifth (45th) day preceding the redemption date. The principal amount of Bonds to be redeemed shall be reduced by the principal amount of Bonds so purchased. Bonds which mature on a single future date may be purchased at any time prior to the maturity date. All such purchases shall be made at prices not exceeding the applicable principal amount or Redemption Price established pursuant to subsection 2 of this Section 1201, plus accrued interest, and such purchases shall be made in such manner as the Trustee shall determine. No purchase shall be made by the Trustee pursuant to this subsection if such purchase would result in the Trustee holding less than the moneys and Federal Securities required to be held for the payment of all other Bonds deemed to be paid pursuant to this Section 1201.

4. The Authority may purchase with any available funds any Bonds deemed to be paid pursuant to this Section 1201 in accordance with this subsection. Bonds for which a redemption date has been established may be purchased by the Authority on or prior to the 45th day preceding the redemption date. On or prior to the forty-fifth (45th) day preceding the redemption date the Authority shall give notice to the Trustee of its intention to surrender such Bonds on the redemption date. The Trustee shall proceed to call for redemption the remainder of the Bonds due on the redemption date and shall pay to the Authority on the redemption date the Redemption Price of and interest on such Bonds upon surrender of such Bonds to the Trustee. Bonds which mature on a single future date may be purchased at any time prior to the maturity date. The Trustee shall pay to the Authority the principal amount of and interest on such Bonds upon surrender of such Bonds on the maturity date.

5. Any time after any Bonds, interest on which is excluded from their Holders for federal income tax purposes, are deemed to be paid pursuant to this Section 1201, the Authority shall not at any time permit any of the proceeds of any Bonds or any other funds of the Authority to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond so deemed paid to be an "arbitrage bond" as defined in Section 148 of the Code.

6. Each Fiduciary shall continue to be entitled to reasonable compensation for all services rendered under this Indenture, notwithstanding that any Bonds are deemed to be paid pursuant to this Section 1201.

7. Anything in this Indenture to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds or coupons which remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for two years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Bonds become due and payable, shall, at the written request of the Authority, be repaid by the Fiduciary to the Authority, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the Authority for the payment of such Bonds and coupons.

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8. If any moneys or securities are to be delivered to the Trustee pursuant to subsection 2 of this Section 1201, the Trustee shall have capital and surplus not less than \$100,000,000.

Section 1202. Evidence of Signatures of Bondholders and Ownership of Bonds.

1. Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of (i) the execution of any such instrument, or of an instrument appointing any such attorney, or (ii) the holding by any person of the Bonds or coupons appertaining thereto, shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(1) The fact and date of the execution by any Bondholder or his attorney of such instruments may be proved by a guarantee of the signature thereon by a bank, national banking association or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instruments acknowledged to him the execution thereof, or by an affidavit of witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

(2) The amount of Bonds transferable by delivery held by any person executing any instrument as a Bondholder, the date of his holding such Bonds, and the numbers and other identification thereof, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Trustee, executed by the Trustee or by a member of a financial corporation or other depository wherever situated, showing at the date therein mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Trustee. In addition to the foregoing provisions, the Trustee may from time to time make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

2. The ownership of Bonds registered otherwise than to bearer and the amount, numbers and other identification, and date of holding the same shall be proved by the registry book.

3. Any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Authority or any Fiduciary in accordance therewith.

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Section 1203. Moneys held for Particular Bonds and Coupons. The amounts held by any Fiduciary for the payment of interest, principal or Redemption Price due on any date with respect to particular Bonds or coupons shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds and coupons entitled thereto.

Section 1204. Preservation and Inspection of Documents. All documents received by any Fiduciary under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority, any other Fiduciary, and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

Section 1205. Cancellation and Destruction of Bonds or Coupons. All Bonds paid or redeemed, either at or before maturity, and all mutilated Bonds surrendered pursuant to Section 307, together with all unmatured coupons, if any, appertaining thereto, shall be delivered to the Trustee when such payment or redemption is made or upon surrender, as the case may be, and such Bonds and coupons, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. All interest coupons shall be promptly canceled upon their payment and delivered to the Trustee. Bonds and coupons so canceled may at any time be destroyed by the Trustee, who shall execute a certificate of destruction in duplicate by the signature of one of its authorized officers describing the Bonds and coupons so destroyed, and one executed certificate shall be filed with the Authority and the other retained by the Trustee.

Section 1206. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Authority, the Fiduciaries and the Holders of the Bonds and the coupons thereunto appertaining, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation thereof, and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Fiduciaries, and the Holders of the Bonds and the coupons thereunto appertaining.

Section 1207. No Recourse on the Bonds.

1. No recourse shall be had for the payment of the principal or Redemption Price of or interest on the Bonds or for any claim based thereon or on this Indenture against any past, present or future member, director, officer, employee or agent of the Authority, or any successor, public body or any person executing the Bonds, either directly or through the Authority, under any rule of law or equity, statute or constitution or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of the Bonds.

2. No officer, director, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of, premium, if any, or interest on the Bonds; but nothing herein contained shall relieve any such officer, director, agent or employee from the performance of any official duty provided by law.

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3. All covenants, stipulations, obligations and agreements of the Authority contained in this Indenture shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent authorized by the Act and permitted by the Constitution of the State of Illinois, and no covenants, stipulations, obligations or agreements contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future officer, director, agent or employee of the Authority in his individual capacity, and no officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issue thereof. No officer, director, agent or employee of the Authority shall incur any personal liability in acting or proceeding or in not acting or not proceeding in good faith, reasonably and in accordance with the terms of this Indenture and the Act.

Section 1208. Publication of Notice; Suspension of Publication.

1. Any publication to be made under the provisions of this Indenture in successive weeks or on successive dates may be made in each instance upon any business day of the week and need not be made in the same Authorized Newspaper for any or all of the successive publications but may be made in a different Authorized Newspaper.

2. If, because of the temporary or permanent suspension of the publication or general circulation of an Authorized Newspaper or for any other reason, it is impossible or impractical to publish any notice pursuant to this Indenture in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

Section 1209. Successors and Assigns. Whenever in this Indenture the Authority is named or referred to, it shall be deemed to include its successors and assigns and all the covenants and agreements in this Indenture contained by or on behalf of the Authority shall bind and inure to the benefit of its successors and assigns whether so expressed or not.

Section 1210. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Indenture on the part of the Authority or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Indenture.

Section 1211. Notices. Any notice, demand, direction, request or other instruments authorized or required by this Indenture to be given to or filed with the Authority or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of the Indenture if and when sent by registered mail, return receipt requested.

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To the Authority, if addressed to:

The Illinois State Toll Highway Authority
2001 West 22nd Street
Oak Brook, Illinois 60521
Attention: Executive Director

or at such other address as may be designated in writing by the Authority to the Trustee, and

To the Trustee, if addressed to:

The First National Bank of Chicago
One First National Plaza
Suite 0126
Chicago, Illinois 60670-0126

or at such other address as may be designated in writing by the Trustee to the Authority.

Section 1212. Construction. The Indenture and all Supplemental Indentures shall be construed in accordance with the provisions of Illinois law.

Section 1213. Headings Not a Part of this Indenture. Any headings preceding the texts of the several Articles and Sections hereof, and any Table of Contents appended to copies hereof, are solely for convenience of reference and do not constitute a part of this Indenture, nor do they affect its meaning, construction or effect.

Section 1214. Multiple Counterparts. The Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, The Illinois State Toll Highway Authority has caused this Indenture to be executed in its name and its behalf by its Chairman and its official seal to be impressed hereon and attested by its Secretary, and The First National Bank of Chicago has caused this Indenture to be executed in its behalf by its Vice President and its corporate seal to be impressed hereon and attested by its Assistant-Vice President, all as of the day and year first above written.

**THE ILLINOIS STATE TOLL HIGHWAY
AUTHORITY**

By /s/ Myron F. Weil
Chairman

(SEAL)

Attest:

/s/ Joseph A. Tecson
Secretary

THE FIRST NATIONAL BANK OF CHICAGO

By /s/ R.D. Manella
Vice President

(SEAL)

Attest:

/s/ C.E. Stark
Title: Assistant-Vice President

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STATE OF ILLINOIS)
COUNTY OF COOK) ss

The foregoing instrument was acknowledged before me this 26th day of December, 1985 by
R.D. Manella and C.E. Stark who are, respectively, Vice President and Assistant-Vice President of The First
National Bank of Chicago, a national banking association, on behalf of said bank.

/s/ Brian K. Duncan
Notary Public

(SEAL)

My commission expires: 8-15-89

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STATE OF ILLINOIS)
COUNTY OF COOK) ss

The foregoing instrument was acknowledged before me this 26th day of December, 1985,
by Malcolm E. Erickson, Special Assistant Attorney General of the State of Illinois.

/s/ Brian K. Duncan
Notary Public

(SEAL)

My commission expires: 8-15-89

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STATE OF ILLINOIS)
COUNTY OF SANGAMON) ss

The foregoing instrument was acknowledged before me this 26th day of December, 1985,
by James H. Donnewald, Treasurer of the State of Illinois.

/s/ Barbara Downs
Notary Public

(SEAL)

My commission expires: 7-20-87

EXHIBIT A

[Form of Bond-Front Side]

Registered No. _____

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
Toll Highway Refunding Revenue Bond, 1985 Series

See Reverse Side for
Additional Provisions

Interest Rate _____ %
Maturity Date _____ Dated Date _____
CUSIP _____
December 1, 1985

Registered Owner:

Principal Amount:

[1] THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois (the "Authority"), for value received, hereby promises to pay (but only out of the sources hereinafter provided) to the Registered Owner identified above or registered assigns, upon presentation and surrender hereof, the Principal Amount identified above on the Maturity Date specified above, unless this 1985 Series Bond shall have been previously called for redemption and payment of the redemption price shall have been duly made or provided for, and to pay (but only out of the sources hereinafter provided) interest on said Principal Amount from the interest payment date next preceding the date of authentication and delivery of this 1985 Series Bond, unless this 1985 Series Bond is authenticated and delivered on an interest payment date, in which event this 1985 Series Bond shall bear interest from such interest payment date, or unless this 1985 Series Bond is authenticated and delivered prior to July 1, 1986, in which event this 1985 Series Bond shall bear interest from its Dated Date, or unless, as shown by the records of the hereinafter referred to Trustee, interest on this 1985 Series Bond shall be in default, in which event this 1985 Series Bond shall bear interest from the last date to which interest has been paid. Interest on this 1985 Series Bond is payable on July 1, 1986 and thereafter on January 1 and July 1 of each year, until the payment in full of such Principal Amount, except as provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto.

[2] Principal of and premium, if any, on this 1985 Series Bond are payable in lawful money of the United States of America at the principal corporate trust office of The First National Bank of Chicago, Chicago, Illinois, or its successor in trust (the "Trustee") and Paying Agent, or at the option of the Registered Owner hereof, at the designated office of First Chicago Trust Company of New York, New York, New York, as Co-Paying Agent; payment of the interest hereon shall be made to the person in whose name this 1985 Series Bond is registered at the close of

business on the fifteenth (15th) day of the calendar month next preceding each interest payment date (the "Record Date") by check or bank draft mailed by the Trustee to such Registered Owner at such Registered Owner's address as it appears on the registry books of the Authority maintained by The First National Bank of Chicago, Chicago, Illinois, as Registrar (the "Registrar").

[3] Reference is hereby made to the further provisions of this 1985 Series Bond on the reverse hereof and such further provisions shall for all purposes have the same effect as if set forth at this place.

[4] It is hereby certified, recited and declared that all acts and conditions required to be performed precedent to and in the execution and delivery of the Indenture and the issuance of this 1985 Series Bond have been performed in due time, form and manner as required by law, and that the issuance of this 1985 Series Bond and the series of which it is a part does not exceed or violate any constitutional or statutory limitation.

[5] This 1985 Series Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been duly executed by the Trustee.

[6] IN WITNESS Whereof, The Illinois State Toll Highway Authority has caused this 1985 Series Bond to be signed in its name and on its behalf by the facsimile signature of its Chairman, and its corporate seal (or a facsimile thereof) to be hereunto impressed, imprinted, engraved or otherwise reproduced hereon and attested by the facsimile signature of its Secretary, all as of the Dated Date identified above.

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

(facsimile signature)

Chairman

Facsimile Seal

Attest:

(facsimile signature)

Secretary

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[Form of Certificate of Authentication on all 1985 Series Bonds]

Trustee's Certificate

This Bond is one of the 1985 Series Bonds described in the within-mentioned Indenture.

Date of Authentication and Delivery:

The First National Bank of Chicago, as Trustee

By:

Authorized Signatory

[Form of Bond-Reverse Side]

[7] This 1985 Series Bond is one of a duly authorized issue of \$167,200,000 aggregate principal amount Toll Highway Refunding Revenue Bonds, 1985 Series (the "1985 Series Bonds"), issued pursuant to the provisions of Illinois Revised Statutes, Chapter 121, paragraphs 100-1 et seq., as amended (the "Act") and a Trust Indenture dated as of December 1, 1985 (the "Indenture"), by and between the Authority and the Trustee, for the purpose of raising moneys to advance refund the Authority's Northern Illinois Toll Highway Revenue Bonds, designated Series of 1955; Series of 1955, issue of 1958; Series of 1955, issue of 1966; and Series of 1955, issue of 1970 (collectively, the "1955 Bonds"), to pay costs in connection with the advance refunding of the 1955 Bonds; to pay costs in connection with the issuance of the 1985 Series Bonds; and to provide for the funding of a Debt Reserve Account established under the Indenture. As provided in the Indenture, the principal or redemption price of and interest on the 1985 Series Bonds are payable solely from and secured by a pledge of and lien on Net Revenues (the "Net Revenues") of the Authority's Tollway System (the "Tollway System") described in the Indenture and amounts on deposit in certain Funds, Accounts and Sub-Accounts established pursuant to the Indenture. Such pledge is subject and subordinate in certain respects to the pledge and lien created by the Indenture for the benefit of Priority Bonds (as defined in the Indenture) which may be issued by the Authority pursuant to the Indenture.

[8] Pursuant to an Escrow Agreement (the "Escrow Agreement") by and between the Authority and Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois, as Escrow Agent (the "Escrow Agent"), the Authority has established an irrevocable Escrow Fund (the "Escrow Fund") with the Escrow Agent, for the purpose of paying the interest on the 1955 Bonds as the same becomes due and retiring the 1955 Bonds on the dates and in the amounts set forth in the Escrow Agreement and to pay costs in connection with the advance refunding of the 1955 Bonds. Direct obligations of the United States of America together with a beginning cash balance have been established in the Escrow Fund with the Escrow Agent for the purpose of providing for the timely payment of the 1955 Bonds at the times and in the amounts set forth in the Escrow Agreement. The rights of the owners of all 1985 Series Bonds, Refunding Bonds permitted to be issued under the Indenture on a parity with the 1985 Series Bonds and Priority Bonds (collectively, the "Bonds") pursuant to the Indenture are subject to the rights of the holders of the 1955 Bonds to the extent that

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the Escrow Fund should be insufficient to pay interest and premium on and principal of the 1985 Bonds when required to be paid. Copies of the Indenture and the Escrow Agreement are on file at the principal corporate trust office of the Trustee and reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Authority, the Trustee and the owners of the Bonds and the terms upon which the Bonds may be issued and secured.

[9] This 1985 Series Bond is transferable, as provided in the Indenture, only upon the registry books of the Authority maintained by the Registrar by the Registered Owner hereof in person, or by his duly authorized attorney, upon surrender hereof with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney, and thereupon a new registered 1985 Series Bond or Bonds, in the same aggregate principal amount and maturity, shall be issued to the transferee. The Authority, the Trustee, the Registrar, and any Paying Agent may deem and treat the person in whose name this 1985 Series Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

[10] The 1985 Series Bonds are issuable in the form of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. Subject to the conditions and upon the payment of the charges provided in the Indenture, 1985 Series Bonds may be surrendered (accompanied by a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney) in exchange for an equal aggregate principal amount of 1985 Series Bonds of the same maturity of any other authorized denominations.

[11] The Registrar shall not be required to make any registration, transfer or exchange of any 1985 Series Bond during the period between each Record Date and the next succeeding interest payment date of such 1985 Series Bond, or after such 1985 Series Bond has been called for redemption or, in the case of any proposed redemption of 1985 Series Bonds, during the fifteen (15) days next preceding the date of first giving of notice of such redemption.

[12] 1985 Series Bonds maturing on or after January 1, 1997 are subject to redemption at the election or direction of the Authority prior to maturity on or after January 1, 1996, in whole at any time or in part in any order of maturity designated by the Authority on any interest payment date during the periods set forth below in integral multiples of \$5,000, at the redemption prices (expressed as percentages of aggregate principal amount) set forth in the table below, plus accrued interest thereon to the date fixed for redemption:

Period During Which Redeemed (both dates inclusive)	Redemption Prices
January 1, 1996 through December 31, 1996	102.0%
January 1, 1997 through December 31, 1997	101.5%
January 1, 1998 through December 31, 1998	101.0%

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January 1, 1999 through December 31, 1999 100.5%
January 1, 2000 and thereafter 100.0%

[13] To the extent that amounts are available in the Redemption Sub-Account and Debt Reserve Account established pursuant to the Indenture, and after giving effect to 1985 Series Bonds maturing on January 1 of the years 2005 and 2009 purchased by the Trustee and 1985 Series Bonds of the same maturities surrendered by the Authority to the Trustee (which 1985 Series Bonds shall be credited against Sinking Fund Installments described in the Indenture with respect to the 1985 Series Bonds maturing on January 1 of the years 2005 and 2009, respectively), 1985 Series Bonds maturing on January 1 of the years 2004 and 2006 through 2008 respectively, in satisfaction of such Sinking Fund Installments, at a redemption price equal to the principal amount thereof. Failure to retire the entire scheduled amount of such 1985 Series Bonds through the application of any Sinking Fund Installment shall not be an event of default under the Indenture.

[14] If less than all of the 1985 Series Bonds of like maturity shall be called for redemption, the particular 1985 Series Bonds or portions thereof to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any 1985 Series Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof and that, in selecting portions of such 1985 Series Bonds for redemption, the Trustee shall treat each such 1985 Series Bond as representing that number of 1985 Series Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such 1985 Series Bond to be redeemed in part by \$5,000. Notice of the redemption of 1985 Series Bonds shall be given by the Trustee by registered or certified mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owners of the 1985 Series Bonds to be redeemed at their addresses shown on the registry books of the Authority maintained by the Registrar. If, on the date fixed for redemption, moneys for the redemption of all 1985 Series Bonds or portions thereof to be redeemed, together with interest to such date, shall be held by the Trustee so as to be available therefor on said date, then, from and after the date fixed for redemption, interest on the 1985 Series Bonds or portions thereof so called for redemption shall cease to accrue and become payable.

[15] Pursuant to the Indenture, the Authority shall fix, change and collect tolls for the use of the Tollway System as shall be required in order that in each fiscal year of the Authority (the "Fiscal Year") Net Revenues shall at least equal the Net Revenue Requirement (as such term is defined in the Indenture) (the "Net Revenue Requirement") for such Fiscal Year (collectively, the "Toll Covenant"). Failure to comply with the Toll Covenant shall not constitute an event of default under the Indenture if the Authority shall, during the following Fiscal Year, adopt and place in effect a schedule of tolls recommended by an engineer or engineering firm or corporation described in the Indenture (the "Traffic Engineers"); provided that if the Traffic Engineers shall be of the opinion that a schedule of tolls sufficient to satisfy the requirements of the Toll Covenant is impracticable, then the Authority shall fix and establish such schedule of tolls as is recommended by the Traffic Engineers in order to comply as nearly as practicable with the Toll Covenant and in such event the failure to comply with the Toll Covenant shall not constitute an event of default under the Indenture.

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[16] The Indenture provides that if the Authority shall pay the principal or redemption price, if applicable, and interest due or to become due on all Bonds, at the times and in the manner stipulated therein and in the Indenture, then the pledge and lien created by the Indenture for all Bonds shall be discharged and satisfied. If the Authority shall pay the principal or redemption price, if applicable, and interest due and to become due on all Bonds of a particular series or maturity within a series at the times and in the manner stipulated therein and in the Indenture, then the pledge and lien created by the Indenture for such Bonds shall thereupon be discharged, and satisfied. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust at or prior to their maturity or redemption dates shall be deemed to have been paid if, among other things, the Authority shall have delivered to the Trustee either moneys in an amount which shall be sufficient or direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (the "Federal Securities"), the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal or redemption price, if applicable, of and interest due and to become due on said Bonds on and prior to each specified redemption date or maturity date thereof, as the case may be. Federal Securities and moneys so deposited with the Trustee shall be held in trust for the payment of the principal or redemption price, if applicable, of and interest on said Bonds.

[17] The Bonds do not represent or constitute a debt of the Authority or of the State of Illinois within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the Authority or the State of Illinois or the grant to the Registered Owners thereof of any right to have the Authority or the General Assembly of the State of Illinois levy any taxes or appropriate any funds for the payment of the principal of premium, if any, or interest on the Bonds. The Bonds are payable solely from the revenues and sources authorized under the Act and pledged for their payment in accordance with the Indenture. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Bonds or for any claim based thereon or on the Indenture against any past, present or future member, officer, employee or agent of the Authority, or any successor, public body or person executing the Bonds, either directly or through the Authority, under any rule of law or equity, statute or constitution or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of the Bonds.

[18] The Registered Owner of this 1985 Series Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. If an event of default (as defined in the Indenture) occurs, the principal of all Bonds issued under the Indenture may be declared due and payable upon the conditions and in the manner and with the effect provided in the Indenture.

[19] Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

[FORM OF ASSIGNMENT]

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The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations.

UNIFORM GIFT MIN ACT — (Cust) Custodian (Minor)

under Uniform Gifts to Minors Act

(State)

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Please insert Social Security or other identifying number of Assignee)

the within 1985 Series Bond and does hereby irrevocably constitute and appoint registration thereof with full power of substitution in the premises.

Dated: _____

Signature Guaranteed: _____

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NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within 1985 Series Bond in every particular, without alteration or enlargement or any change whatever.

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

#1193136.8 3/9/95 5:01 PM

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PSB 1X-X Summary of Tier I and Tier II Scoring Evaluations

[illegible]

Scoring on these submittals is paramount to the Tollway contracting with the most qualified submitters. By pooling all our knowledge we can identify those submittals that rise to the level that defines our needs and expectations. Thank you for your time!

Listed below are scoring parameters:

Excellent	5
Knowledgeable	4
Very Good	3
Meets	2.75
Fair	2.5
OK	2.25
Limited	2
Very Limited	1
Not Qualified	0

PSB #:	18-1	Item # 1	Item Description:	Elgin O'Hare Western Access, West Extension. Phase I Engineering Services for Planning Studies and Master Plan Services.
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	Selection Criteria 1: Related Experience and Technical Competence of the Personnel and Experience of the Firms and/or Sub-Consultants.	Selection Criteria 2: Familiarity of the Firm and any Proposed Sub-Consultants with the Work Described in the Item. Particular Attention Given to Appropriate Cost Saving Measures.	Selection Criteria 3: Ability of Firm to Complete the Work in the Time Required and the Firm's Existing Workload.	Selection Criteria 4: Commitment and Availability of Key Personnel.	Selection Criteria 5: Firm's Proposed Method of Accomplishing the Project's Objectives.			
	SOI Reference: Section 1-Project Understanding; Section 2-Organization Chart, Section 3-Personnel	SOI Reference: Section 5-Relevant Project Experience.	SOI Reference: Section 7, Exhibit C	SOI Reference: Section 4, Exhibit D	SOI Reference: Section 1 Project Approach			
	Score 0 - 5 "5" is the highest	Score 0 - 5 "5" is the highest	Score 0 - 5 "5" is the highest	Score 0 - 5 "5" is the highest	Score 0 - 5 "5" is the highest			

Instructions: Fields within the table are drop-downs that allow you to choose from available selections.

Enter name of each sub-consultant as listed in the Statement of Interest; indicate whether sub-consultant is a currently certified DBE, MBE, WBE and/or SBA 8(a) (attach evidence of certification from an acceptable agency – reference Section 2.4); indicate ethnicity and gender of each listed sub-consultant's PRIMARY OWNER; indicate proposed work category(ies) for each sub-consultant. Also indicate whether a mentor/protégé (M/P) is proposed for any of the listed sub-consultants; indicate whether any listed sub-consultant is a partner in any proposing Teaming Agreement (TM).

NOTE 1: The **imbedded** table represents the proposer's draft 'Plan to Achieve Diversity Goal.' The awarded consultant will finalize this Plan during negotiations based on the negotiated scope of work. The proposer's total DBE goal and proposed subconsultants shall not change, but the work category and percentage of work for each subconsultant may be adjusted, if necessary, during negotiations.

NOTE 2: The VOSB/SDVOSB Utilization Plan, Letter of Intent, certifications and, if applicable, Good Faith Effort paperwork must be included in the Statement of Interest submittal.

Note: This Instruction will disappear when all data is complete

Item # 1 Contract # Scope

[illegible]

The Brooks Act

1278

PUBLIC LAW 92-582—OCT. 27, 1972

[86 STAT.]

76 Stat. 467.
37 USC 308.

79 Stat. 547.

Failure to complete contract.

Clifton Forge, Va., steam locomotive.
70A Stat. 466.

October 27, 1972
[H. R. 12807]

Architects and engineers.
Federal selection policy, establishment.
63 Stat. 377;
82 Stat. 1104.

“(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

“(c) An amount paid to a member under subsection (a) of this section is in addition to all other compensation to which he is entitled and does not count against the limitation prescribed by section 308(c) of this title concerning the total amount of reenlistment bonus that may be paid. However, if he receives payment under this section, he is not entitled to any further payments under section 308(g) of this title.

“(d) Under regulations prescribed by the Secretary of the Navy, refunds, on a pro rata basis, of sums paid under subsection (a) of this section may be required, and further payments terminated, if the member who has received the payment fails to complete his reenlistment contract, or fails to maintain his technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants.

“(e) Provisions of this section shall be effective only in the cases of members who, on or before June 30, 1975, execute the required written agreement to remain in active service.”; and

(4) by inserting the following new item in the analysis:

“312a. Special pay: nuclear-trained and qualified enlisted members.”.

SEC. 2. The provisions of section 7545(c) of title 10, United States Code, shall not apply with respect to any gift made after the date of enactment of this Act and prior to January 1, 1973, by the Department of the Navy to the city of Clifton Forge, Virginia, of a Baldwin steam locomotive (No. 606) which is no longer needed by the Navy and which has certain historical significance for the city of Clifton Forge, Virginia.

Approved October 27, 1972.

Public Law 92-582

AN ACT

To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

“TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

“DEFINITIONS

“SEC. 901. As used in this title—

“(1) The term ‘firm’ means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

“(2) The term ‘agency head’ means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

“(3) The term ‘architectural and engineering services’ includes those professional services of an architectural or engineering nature as well

as incidental services that members of these professions and those in their employ may logically or justifiably perform.

"POLICY

"SEC. 902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

"REQUESTS FOR DATA ON ARCHITECTURAL AND ENGINEERING SERVICES

"SEC. 903. In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

"NEGOTIATION OF CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

"SEC. 904. (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

"(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

"(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached."

Approved October 27, 1972.

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as [Public Acts](#) soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the [Guide](#).

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

FINANCE

(30 ILCS 535/) Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(30 ILCS 535/1) (from Ch. 127, par. 4151-1)

Sec. 1. Short title. This Act may be cited as the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.
(Source: P.A. 87-673.)

(30 ILCS 535/5) (from Ch. 127, par. 4151-5)

Sec. 5. State policy on procurement of architectural, engineering, and land surveying services. It is the policy of State agencies of this State to publicly announce all requirements for architectural, engineering, and land surveying services, to procure these services on the basis of demonstrated competence and qualifications, to negotiate contracts at fair and reasonable prices, and to authorize the Department of Professional Regulation to enforce the provisions of Section 65 of this Act.
(Source: P.A. 87-673.)

(30 ILCS 535/10) (from Ch. 127, par. 4151-10)

Sec. 10. Federal requirements. In the procurement of architectural, engineering, and land surveying services and in the awarding of contracts, a State agency may comply with federal law and regulations including, but not limited to, Public Law 92-582 (Federal Architect-Engineer Selection Law, Brooks Law, 40 U.S.C. 541) and take all necessary steps to adapt its rules, specifications, policies, and procedures accordingly to remain eligible for federal aid.
(Source: P.A. 87-673.)

(30 ILCS 535/15) (from Ch. 127, par. 4151-15)

Sec. 15. Definitions. As used in this Act:
"Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.

"Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.

"Firm" means any individual, sole proprietorship, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying and provide those services.

"Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.

"Project" means any capital improvement project or any design, study, plan, survey, or new or existing program activity of a State agency, including development of new or existing programs that require architectural, engineering, or land surveying services.

"State agency" means any department, commission, council, board, bureau, committee, institution, agency, university, government corporation, authority, or other establishment or official of this State.

(Source: P.A. 91-91, eff. 1-1-00.)

(30 ILCS 535/20) (from Ch. 127, par. 4151-20)

Sec. 20. Prequalification. A State agency shall establish

procedures to prequalify firms seeking to provide architectural, engineering, and land surveying services or may use prequalification lists from other State agencies to meet the requirements of this Section.
(Source: P.A. 87-673.)

(30 ILCS 535/25) (from Ch. 127, par. 4151-25)

Sec. 25. Public notice. Whenever a project requiring architectural, engineering, or land surveying services is proposed for a State agency, the State agency shall provide no less than a 14 day advance notice published in a professional services bulletin or advertised within the official State newspaper setting forth the projects and services to be procured. The professional services bulletin shall be available electronically and may be available in print. The professional services bulletin shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the public notice, a statement of qualifications.
(Source: P.A. 92-345, eff. 8-10-01.)

(30 ILCS 535/30) (from Ch. 127, par. 4151-30)

Sec. 30. Evaluation procedure. A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

A State agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services. A selection committee may include at least one public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the State agency nor may the public member's firm be considered for a contract with that State agency while he or she is serving as a public member of the committee.

In addition, the Department of Transportation may appoint public members to selection committees that represent the geographic, ethnic, and cultural diversity of the population of the State, including persons nominated by associations representing minority and female-owned business associations. Public members shall be licensed in or have received a degree from an accredited college or university in one of the professions affected and shall not be employed by, associated with, or have an ownership interest in any firm holding or seeking to hold a contract while serving as a public member of the committee.

In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 96-37, eff. 7-13-09; 96-849, eff. 12-23-09.)

(30 ILCS 535/35) (from Ch. 127, par. 4151-35)

Sec. 35. Selection procedure. On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the State agency determines that one or both of those firms are so qualified, the State agency may proceed to negotiate a contract under Section 40. The decision of the State agency shall be final and binding.

(Source: P.A. 87-673.)

(30 ILCS 535/40) (from Ch. 127, par. 4151-40)

Sec. 40. Contract negotiation.

(a) The State agency shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the State agency determines in writing to be fair and reasonable. In making this decision, the State agency shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may a State agency establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.

(b) If the State agency is unable to negotiate a satisfactory contract with the firm that is most preferred, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred. If the State agency is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred.

(c) If the State agency is unable to negotiate a satisfactory contract with any of the selected firms, the State agency shall re-evaluate the architectural, engineering, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The State agency shall then compile a second list of not less than 3 qualified firms and proceed in accordance with the provisions of this Act.

(d) A firm negotiating a contract with a State agency shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services.
(Source: P.A. 87-673.)

(30 ILCS 535/45) (from Ch. 127, par. 4151-45)

Sec. 45. Small contracts. The provisions of Sections 25, 30, and 35 do not apply to architectural, engineering, and land surveying contracts with an estimated basic professional services fee of less than \$25,000.
(Source: P.A. 92-861, eff. 1-3-03.)

(30 ILCS 535/50) (from Ch. 127, par. 4151-50)

Sec. 50. Emergency services. Sections 25, 30, and 35 do not apply in the procurement of architectural, engineering, and land surveying services by State agencies (i) when an agency determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm or (ii) in emergencies when immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.
(Source: P.A. 87-673.)

(30 ILCS 535/55) (from Ch. 127, par. 4151-55)

Sec. 55. Firm performance evaluation. Each State agency shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm who may submit a written response, with the evaluation and response retained solely by the agency. The evaluation and response shall not be made available to any other person or firm and is exempt from disclosure under the Freedom of Information Act.
(Source: P.A. 87-673.)

(30 ILCS 535/60) (from Ch. 127, par. 4151-60)

Sec. 60. Certificate of compliance. Each contract for architectural, engineering, and land surveying services by a State agency shall contain a certificate signed by a representative of the State agency and the firm that the provisions of this Act were complied with.
(Source: P.A. 87-673.)

(30 ILCS 535/65) (from Ch. 127, par. 4151-65)

Sec. 65. Scope. No person, corporation, or partnership licensed or registered under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois

Professional Land Surveyor Act of 1989 shall engage in any act or conduct, or be a party to any contract, or agreement, in violation of the provisions of this Act.
(Source: P.A. 91-91, eff. 1-1-00.)

(30 ILCS 535/70) (from Ch. 127, par. 4151-70)

Sec. 70. Enforcement. Any contract or agreement made in violation of this Act after the effective date of this Act, except a supplement or extension of an existing contract, is void and unenforceable, and the Comptroller and Treasurer of the State of Illinois shall not process any payment claims or checks for any contract or agreement made in violation of this Act.
(Source: P.A. 87-673.)

(30 ILCS 535/75) (from Ch. 127, par. 4151-75)

Sec. 75. Nothing in this Act shall be deemed to prohibit a State agency from contracting for a design/build project.
(Source: P.A. 87-673.)

(30 ILCS 535/80) (from Ch. 127, par. 4151-80)

Sec. 80. Affirmative action. Nothing in this Act shall be deemed to prohibit or restrict agencies from establishing or maintaining affirmative action contracting goals for minorities or women, or small business setaside programs, now or hereafter established by law, rules and regulations, or executive order.
(Source: P.A. 87-673.)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES CHAPTER IX: DEPARTMENT OF TRANSPORTATION PART 625 SELECTION OF ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES

The General Assembly's Illinois Administrative Code database includes only those rulemakings that have been permanently adopted. This menu will point out the Sections on which an emergency rule (valid for a maximum of 150 days, usually until replaced by a permanent rulemaking) exists. The emergency rulemaking is linked through the notation that follows the Section heading in the menu.

- [Section 625.10 Purpose](#)
- [Section 625.20 Applicability](#)
- [Section 625.30 Equal Employment Opportunity; Nondiscrimination; Affirmative Action](#)
- [Section 625.40 Prequalification](#)
- [Section 625.50 Solicitation](#)
- [Section 625.60 Statements of Interest](#)
- [Section 625.70 Confirmation of Eligibility](#)
- [Section 625.80 Preliminary Review and Ranking](#)
- [Section 625.90 Consultant Selection Committee](#)
- [Section 625.100 Selection](#)
- [Section 625.110 Notification of Selections](#)
- [Section 625.120 Negotiations](#)
- [Section 625.130 Waivers, Modifications](#)
- [Section 625.140 Complaint Procedure](#)

AUTHORITY: Implementing Sections 5, 10, 20, 25, 30, 35, 40, 45, 50 and 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535/5, 10, 20, 25, 30, 35, 40, 45, 50 and 55]; Section 35 of the Illinois Aeronautics Act [620 ILCS 5/35]; Section 4-201.4 of the Illinois Highway Code [605 ILCS 5/4-201.4]; and Section 2705-240 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-240] and authorized by Section 10 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535/10]; Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Adopted at 5 Ill. Reg. 9143, effective September 1, 1981; codified at 8 Ill. Reg. 17988; emergency amendment at 33 Ill. Reg. 11127, effective July 7, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 15878, effective October 30, 2009; recodified Title of the Part at 39 Ill. Reg. 5903.

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

**TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND
PROPERTY MANAGEMENT**

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER IX: DEPARTMENT OF TRANSPORTATION

**PART 625 SELECTION OF ARCHITECTURAL, ENGINEERING AND LAND
SURVEYING SERVICES**

SECTION 625.10 PURPOSE

Section 625.10 Purpose

The purpose of this Part is to provide for the selection of architect-engineer consultant firms on the basis of a comparative evaluation of professional and technical qualifications that are considered essential to satisfactorily performing the services required, including related professional disciplines required to fully evaluate the environmental impact of proposed improvements. It is also a purpose of this Part to provide for the documentation of actions taken under this Part. All documents created shall, unless otherwise provided in this Part or unless otherwise provided by law, be maintained in accordance with any applicable records management policy and be available for public inspection.

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

**TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND
PROPERTY MANAGEMENT**

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER IX: DEPARTMENT OF TRANSPORTATION

**PART 625 SELECTION OF ARCHITECTURAL, ENGINEERING AND LAND
SURVEYING SERVICES**

SECTION 625.20 APPLICABILITY

Section 625.20 Applicability

- a) **General**
The requirements of this Part are applicable to all architectural, engineering and land surveying services provided to the Department pursuant to contract unless provided otherwise in this Part. This Part is intended to cover all services acquired pursuant to the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act (the Act) [30 ILCS 535], unless specifically covered by another applicable law or regulation.
- b) **Small Contracts**
Sections 625.50, 625.80 and 625.100 do not apply to architectural, engineering and land surveying contracts with an estimated basic professional services fee of less than \$25,000. (See Section 45 of the Act.)
- c) **Emergency Services**
Sections 625.50, 625.80 and 625.100 do not apply in the procurement of architectural, engineering and land surveying services by the Department when the Department determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm, or in emergencies when immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster. (See Section 50 of the Act.)

(Source: Amended at 33 Ill. Reg. 15878, effective October 30, 2009)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER IX: DEPARTMENT OF TRANSPORTATION

PART 625 SELECTION OF ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES

SECTION 625.30 EQUAL EMPLOYMENT OPPORTUNITY; NONDISCRIMINATION; AFFIRMATIVE ACTION

Section 625.30 Equal Employment Opportunity; Nondiscrimination; Affirmative Action

It is the policy of the Department to execute and administer contracts hereunder in accordance with applicable State and Federal laws and regulations regarding nondiscrimination in the hiring of employees or firms, on the basis of race, color, religion, sex or national origin and regarding affirmative action. While every attempt is made to apprise potential consultants of the requirements this policy may impose upon them, the lack of such appraisal will not preclude the Department from requiring compliance with such applicable laws and regulations as a condition to continued payment for work completed under a contract with the Department; nor will the lack of such appraisal preclude the Department from requiring the return of such payments which would not have been made if, at the time of payment, the Department had been aware of any noncompliance.

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER IX: DEPARTMENT OF TRANSPORTATION

PART 625 SELECTION OF ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES

SECTION 625.40 PREQUALIFICATION

Section 625.40 Prequalification

All architect-engineer consultant firms desiring to provide services to the Department, whether as prime consultants or subconsultants, must be prequalified before any consideration can be given to their proposals. Prequalification must be obtained no later than the final date established for the receipt of proposals on any particular work. Provided, however, that a firm which is prequalified for one or more types of work on the final date established for the receipt of proposals may submit supplemental information necessary to establish prequalification for an additional type or types of work; such supplemental information must be received by the Consultant Services Unit no later than three working days prior to the Consultant Selection Committee meeting. Prequalification procedures are as follows:

- a) A properly completed "Statement of Experience and Financial Condition" (SEFC) form with required attachments must be filed with the Division of Highways, Consultant Services Unit. Because of varying workloads, it is not possible for the Department to guarantee that SEFC's will be processed within a particular time period. Accordingly, a firm desiring to become prequalified in order to be considered for a particular job should file its SEFC as early as possible.
- b) The Consultant Services Unit will consider the SEFC and attachments and will notify a firm of the size and types of service it is qualified to perform. When this notice is given, a firm is prequalified.
- c) The prequalification notice provided in (b) above will, unless otherwise changed by the Department, be effective from the time notice is given until 18 months after the end of the firm's last-reported fiscal year. At that time, the prequalification automatically expires and a firm's proposals cannot be considered until prequalification is obtained again. In order to avoid expiration of its prequalification, a firm should submit as early as possible after each fiscal year end a complete and updated SEFC.
- d) Each firm has a continuing obligation to notify the Department of any change which would be likely to impair significantly its ability to perform successfully any work for which it might be considered.

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- e) A firm may be removed from the list of prequalified consultants for a particular type of service if an evaluation of its work for the Department indicates that this service was determined to be poor on a single project or below adequate on two or more projects. At the conclusion of each contract, the Department shall evaluate the consultant's overall performance, considering the quality and adequacy of final plans and documents, the extent of corrections and resubmittals, cooperation in meeting District requests and making revisions, any failure to meet established schedules due to poor or slow work, and claims for extra work and adequacy of support. The firm shall be advised of the specific deficiencies and shall be reinstated only after it submits sufficient evidence that such deficiencies have been corrected.
- f) All inquiries regarding the procedures or information required for prequalification shall be referred to the Consultant Services Unit.
- g) Unless otherwise required by law, the Department will maintain and treat all information required under Section 625.40 as confidential and as for use only by the Department or another governmental agency entitled by law or by agreement to use such information.

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SECTION 625.50 SOLICITATION**

Section 625.50 Solicitation

The official notice of the Department's needs for architectural or engineering services or any other services being procured hereunder shall be published in its Professional Service Bulletin. Such notice shall describe the requirements of each project as they apply to the scope of the work; the time for completion; professional and technical expertise necessary; and, if applicable, the required proximity of the firm to the Departmental District or Bureau in charge of the work. The Consultant Services Unit shall issue a copy of the bulletin to all architect-engineer consultant firms that are prequalified with the Department for the type of service(s) needed.

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SECTION 625.60 STATEMENTS OF INTEREST

Section 625.60 Statements of Interest

All firms desiring to be considered as prime consultants for a project must submit a statement of interest to the Consultant Services Unit by the date specified in the corresponding bulletin. The bulletin shall specify the types of information that must be included in the statement. Such information shall include, but need not be confined to, the following:

- a) The known workload of the firm's transportation staff.
- b) A staffing plan that designates the key personnel and shows the number and classification of personnel that will be assigned to the project and any work that the firm proposes to subcontract.
- c) The existing office where the majority of the work will be performed.

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SECTION 625.70 CONFIRMATION OF ELIGIBILITY

Section 625.70 Confirmation of Eligibility

- a) The Consultant Services Unit shall determine the eligibility of each firm that responds to a solicitation. A firm shall be considered ineligible and shall be excluded from the selection process for any one of the following reasons:
 - 1) It is not prequalified for the type(s) or volume of service required;
 - 2) It does not have sufficient expertise or work force for the particular job;
 - 3) It does not have a sufficient financial rating or accounting system for the type of contract contemplated;
 - 4) The Department has determined that the firm does not have an acceptable affirmative action program;
 - 5) If the Consultant is to be retained to prepare contract plans for a facility which will carry railroad traffic, and the owning railroad determines that a particular firm is unacceptable.
- b) Any firm determined to be ineligible under this Section shall be notified of such determination and the reason(s) therefor.

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SECTION 625.80 PRELIMINARY REVIEW AND RANKING

Section 625.80 Preliminary Review and Ranking

- a) Following the confirmation of each firm's eligibility, the Director of the requesting Division or Office, or the Director's designated representative(s), and the Consultant Services Unit shall review the firm's experience data, its statement of interest, and any evaluations of its previous work for the Department. Based upon this review, the Consultant Services Unit will rank the firms in order of apparent ability to perform the work. Such review and ranking shall take into consideration at least the following factors:
 - 1) Previous experience in the type(s) of service required;
 - 2) Departmental evaluations of prior contractual services with the Department, if any;
 - 3) The staffing plan and specific expertise of key employees;
 - 4) The plan for accomplishing the objectives (if applicable, according to the requirements stated in the Professional Service Bulletin);
- b) Depending upon the type of project and the method of payment, the following factors may also be important in the selection of a consultant:
 - 1) The location of the firm's office in which the majority of the work on the project would be done;
 - 2) The firm's ratio of payroll additives to payroll, as approved in the Department's notice of prequalification.
- c) The Consultant Services Unit shall prepare a list for the Selection Committee to show the ranking of each firm and the additional information described above. Such list shall also indicate those firms that are determined to be minority business enterprises pursuant to any applicable Federal Highway Administration (FHWA) definition. If any other federal or State definition would take precedence over the FHWA definition, then such list shall indicate those firms that are determined to be minority business enterprises pursuant to such other definition.

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- d) The Consultant Selection Committee shall determine appropriate projects, which by their nature and the corresponding qualifications of the proposing minority-owned firms, are suitable for implementing any applicable affirmative action program. On such projects minority ownership may be considered in conjunction with the other factors outlined above in the selection process.
 - e) Ranking will be made based upon unanimous agreement of the reviewers. Any irreconcilable differences among the reviewers shall be noted when the reviewers submit their materials to the Selection Committee.
 - f) All information developed or provided under Section 625.80 shall be advisory only and shall have no binding effect upon the Selection Committee. The Department will, unless otherwise required by law, maintain and treat all such information as confidential and as for use only by the Department or another governmental agency entitled by law or by agreement to use such information.

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SECTION 625.90 CONSULTANT SELECTION COMMITTEE

Section 625.90 Consultant Selection Committee

- a) **Chairperson**
The Deputy Secretary of Transportation, or his/her designee, shall serve as member and chairperson of a seven-member Consultant Selection Committee ("Selection Committee" or "Committee").
- b) **Department Members**
 - 1) Three of the remaining six members of the Committee shall be from the Department. Specifically, they shall be:
 - A) the Director of the requesting Division or Office, or his/her designee;
 - B) the Regional Engineer (or his/her designee) or the Bureau Chief (or his/her designee) from the same Division or Office, as designated by the Director;
 - C) the Director of the Office of Planning and Programming, or his/her designee.
 - 2) In the event that the Office requesting the services is the Office of Planning and Programming, the Committee shall meet and operate as normal except that, for purposes of the affected services the Director of Planning and Programming shall have only one vote and the Committee shall have only six members and six votes.
- c) **Public Members**
The other three members of the Committee shall be from the public and shall have professional experience in transportation or engineering. One shall be appointed by the Secretary of Transportation and the other two by the Illinois Society of Professional Engineers (ISPE). Each public member shall be appointed for a term of two years. If a public member does not complete the term, another member shall be appointed by the Secretary or the ISPE (in accordance with the original appointment) to serve the remainder of the uncompleted term. Public members may

not be employed by, associated with or have an ownership interest in any firm holding or seeking to hold a contract with the Department while serving as a public member of the Committee.

- d) It is the goal of the Department that the membership of the Committee reflect the ethnic and cultural diversity of the population of Illinois. In furtherance of this goal, the Department has a goal that two or more members of the Committee be females or minorities. Additionally, the Department has a goal that the Committee's membership reflect the geographic diversity of the population of Illinois.
- e) **Committee Secretary**
The Chief of the Consultant Services Unit shall serve as Secretary of the Committee but shall not have the power to vote.
- f) **Meetings; Quorum**
The Selection Committee shall meet when called by its Chairperson. In order to conduct business the Selection Committee must have a quorum. A quorum shall consist of at least four members, at least one of whom must be a public member.
- g) **Participation of Other Governmental Bodies**
Where another governmental body or bodies is or are contributing to the funding of a particular contract, the Department may, in its discretion, take either of the following two actions:
 - 1) Permit the governmental body or bodies to provide one or more representatives who will serve as a member or members of the Selection Committee with a total of one vote (or a fractional vote, as may be prescribed by the Department). In some instances, this option may result in a total Selection Committee membership of more than seven and a total number of votes in excess of seven, with respect to the affected services.
 - 2) Select a number of consultants (normally 3) in the normal manner, except the selection shall be in no order of preference; the Department may then permit the governmental body or bodies to select one consultant from that group selected by the Selection Committee.

(Source: Amended at 33 Ill. Reg. 15878, effective October 30, 2009)

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Section 625.100 Selection

- a) **Voice Vote**
The Selection Committee shall review the rankings for the firms, as well as any of the additional information described in Section 625.80, and, by voice vote, reduce the number of firms under consideration to three (or fewer where fewer than three firms have submitted acceptable Statements of Interest).
- b) **Written Ballot**
First, second, and third choices shall then be determined by a plurality vote of those Committee members in attendance; this second round of voting shall be by written ballot cast in such a manner that Committee members cannot observe other choices until after all ballots are cast. In determining these choices, the Committee shall give due consideration to the rankings provided by the reviewers.
- c) **Policy Against Multiple Awards**
Selection of a single consultant as first choice for more than one contract shall not be made in a single session unless such selection is determined to be necessary and the reasons therefor are recorded in the Committee's records and a majority of those members present votes by written ballot to approve such reasons. For purposes of this Part, "single session" shall mean and include one or more meetings necessary for the Selection Committee to make all selections which are to be made from a single Professional Service Bulletin.
- d) **Identity of Firms**
The identity of the second and third choice firms referred to in this Section shall, unless otherwise required by law, be maintained and treated by the Department as confidential and as for use only by the Department or another governmental agency entitled by law or by agreement to such information. Provided, however, that if negotiations fail with the first choice firm, the identity of the second choice firm shall then be considered public information. Similarly, the identity of the third choice firm, if negotiations fail with the second choice firm, shall then be considered public information.

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SECTION 625.110 NOTIFICATION OF SELECTIONS

Section 625.110 Notification of Selections

The Consultant Services Unit shall contact each first-choice firm that is selected by the Committee to inform it of its status and the ensuing negotiations. The name of the first-choice firm shall also be published in the next issue of the Professional Service Bulletin and the regular Service Bulletin.

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SECTION 625.120 NEGOTIATIONS

Section 625.120 Negotiations

The Director of the requesting Division or Office or his designee shall conduct negotiations with the firm selected as first of the three choices. If negotiations cannot be successfully concluded as evidenced by an executed contract with that firm, they shall be formally terminated. Negotiations shall then be initiated with the firm ranking second and if necessary, the firm ranking third, in that order or if no firm's proposal is determined to be suitable, the project will, if let on a contractual basis, be readvertised.

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SECTION 625.130 WAIVERS, MODIFICATIONS

Section 625.130 Waivers, Modifications

Any portion or all of this Part may be waived or modified by the Secretary of Transportation where such waiver or modification is consistent with good governmental procurement practices and is in the best interests of the State. Requests for such a waiver or modification shall be submitted by the appropriate Director and shall be accompanied by a written statement setting forth the basis and need justifying the requested action.

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SECTION 625.140 COMPLAINT PROCEDURE

Section 625.140 Complaint Procedure

A complaint regarding any decision rendered by or action taken by any Division or Office of the Department pursuant to this Part may be filed with the Secretary of Transportation by submitting a written statement setting forth all the facts and circumstances together with the basis for making such complaint and specifically how such decision or action is alleged to be in contravention of this Part. Upon receipt of a complaint, the Secretary will determine whether, in the decision or action complained of, the Division or Office has acted in accordance with this Part and advise the person submitting the written statement as to this determination as to what additional action, if any, the Department will take. Provided, however, that any such complaint must be filed within 14 days from the time the person complaining becomes aware of the decision or action complained of or from the time information of such decision or action becomes generally available to the public, whichever occurs first.

DESCRIPTION AND MINIMUM REQUIREMENTS FOR PREQUALIFICATION

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The Illinois Department of Transportation prequalifies engineering/architectural consultants in multiple transportation categories of service. This is accomplished by interested firms submitting a Statement of Experience and Financial Condition (SEFC) to the department through the Engineering and Prequalification System (EPAS). <http://www.idot.illinois.gov/doing-business/procurements/engineering-architectural-professional-services/index>

These descriptions and minimum requirements for prequalification supplement the SEFC and are to be used as a guide in determining areas of specialization for which firms may wish to apply for prequalification. The categories are located in the EPAS application. All categories require a questionnaire to be completed and the questionnaires are required to be completed to be considered for prequalification in the categories. All consultants, prime and/or subconsultants, must be prequalified in the category of work the firm is performing.

Most categories require the firm to be registered through Illinois Department of Financial and Professional Regulation (IDFPR). Consultant firms are required to be registered as a Professional Design Firm in the following disciplines, Professional Engineering, Structural Engineering, Land Surveying, and/or Architecture.

Where the minimum requirements indicate Illinois licensing or registration, that individual must be a full-time employee who has acted in a leadership role on pertinent projects. A full-time employee is defined as one who works for a firm 35 or more hours/week, 52 weeks/year. Part-time staff members, special consultants, subconsultants, committed or pledging individuals, or persons on retainers cannot be used to meet the minimum requirements for prequalification, except as allowed for Environmental Reports prequalification. The experience of these licensed or registered individuals must be relevant to the category of transportation work and the work must have been performed within the last ten years.

Projects submitted for consideration must be complete. Ongoing projects and estimated completions dates for projects are not considered. Completion dates are for the specific category; for example, roads and streets projects are considered complete when the PS&E are done and the project is ready for bid. Location Design Report categories are complete when the Design Report has been prepared and the project is ready for the design phase.

Prequalification is based on firm experience and on individual experience. A firm can hire an individual with experience and if there is sufficient support staff, the firm can become prequalified in most categories. Each category is reviewed by IDOT experts in the specific categories and the firm's experience and the firm's staff experience is taken into consideration when prequalifying a firm. IDOT works with firms when prequalifying and may request additional information from the firm during the review process. The firm's support staff of engineers and/or technicians must have pertinent experience or training and be full-time. The lack of relevant experience or training of the support staff may result in denial of prequalification.

Firms must be specific in listing all experience, which qualifies them for prequalification in each category. At least one Principal Supervisory Personnel listed in the Statement of Experience and Financial Condition must have been in responsible charge of the firm's projects they are using for prequalification consideration. Details must be provided in the questionnaire for the specific categories in the Statement of Experience and Financial Condition.

Firms requesting prequalification in any area of specialization, at the department's discretion, will be required to send documentation of their past work and/or give a presentation to the department outlining the experience and capabilities of current staff and how the staff would

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accomplish a project if selected. The department at its discretion may make on-site visits to the consultant's office to verify the information set forth in the SEFC document submitted by a firm.

The description of the work involved in the areas of specialization and the minimum requirements are as follows:

A. PREPARATION OF PLANS, SPECIAL PROVISIONS AND ESTIMATES

1. Highways

a. Freeways

Freeways consist of engineering services necessary for and the preparation of plans, special provisions, and estimate of cost for controlled access highways. Previous experience in the design of controlled access highways or satisfactory work in the design of "Roads and Streets" including complex geometric design details is required for a prequalification rating in this category. Typical intersection improvement designs are not considered complex. Plan preparation of signage, Maintenance of Traffic Control, and Traffic Control Plans, are not considered PS&E for Freeways projects. Minimum personnel requirements are 2 full-time Illinois Licensed Professional Engineer with demonstrated experience and support staff.

b. Roads and Streets

Roads and Streets consists of engineering services necessary for and the preparation of plans, special provisions and estimate of cost for arterial and collector and local roads and streets. Previous experience in the design of "Roads and Streets" or related experiences such as the design of city streets or subdivision drives, etc., are a prerequisite for a rating in this category. Minimum personnel requirements are one full-time Illinois Licensed Professional Engineer with demonstrated experience and support staff. Bike paths, sidewalks, ADA ramps, street-landscaping, entrances, and parking lots are not considered PS&E for roadway projects.

2. Airports

Airports consist of engineering services and studies necessary for development of the air-side facilities of airports (runways, taxiways, aprons, lighting systems, etc.). Land-side facilities (roads, parking lots, terminal buildings, etc.) are not considered for prequalification in Airports. The year in which work was completed is required.

The following phases are considered for Airports prequalification:

a. Airport Planning and Special Services

- (1) Airport Layout Plan / Master Plan.
- (2) Environmental Assessment.
- (3) Noise Studies (FAR Part 150).
- (4) Wildlife Studies

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b. Airport Design

- (1) Airport Design (Plans and Specifications) - airfield pavements and simple electrical.
- (2) Airport Electrical Design (Plans and Specifications) - specialized NAVAIDs, vault work, complex electrical.
- (3) Previous work on Airports within the last ten years is required for a prequalification rating in this category.
- (4) Minimum personnel requirements are one Illinois Licensed Professional Engineer experienced in one or more phases of airport work.

c. Airport Construction Inspection

- (1) Airport Construction (Resident Engineering) - airfield pavements and simple electrical.
- (2) Airport Electrical (Resident Engineering) - specialized NAVAIDs, vault work, complex electrical.
- (3) Materials - Testing and Mix Designs.
- (4) Previous work on Airports within the last ten years is required for a prequalification rating in this category.
- (5) Minimum personnel requirements are one Illinois Licensed Professional Engineer experienced in one or more phases of airport work.
- (6) In addition to the above mentioned individuals, the consultant must also have one or more in-house full-time employees who have a working knowledge of IDOT documentation procedures for the inspection of work and a current certificate for the successful completion of the IDOT Construction Documentation of Contract Quantities. A current IDOT Construction Documentation of Contract Quantities certificate must be included.

Local airport sponsors (airport authorities, counties, municipalities, etc.), in cooperation with the Division of Aeronautics, perform selection and assignment of consultants for airport work.

3. Structures

Structures consist of engineering services required for the estimate of cost, planning, design, and preparation of plans and special provisions for bridges and structures. The firm must demonstrate staff experience in directly completing these functions for the requested category in order to become prequalified. Following are general descriptions of each structural category and the minimum requirements to prequalify in each.

a. Highway Bridges

(1) Simple

Description: Multiple cell box culverts, single span bridges, deck beam bridges, deck scarification with overlay and minor repairs on continuous span structures.

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The minimum requirements for prequalification in this category are:

- a) An Illinois Licensed Structural Engineer with experience at the simple level
- b) A support staff of one or more engineers with a degree in civil engineering and structural design experience

(2) Typical

Description: Basic single-unit continuous multiple span bridges classified as seismically “regular”* regardless of seismic zone and basic retaining walls.

The minimum requirements for prequalification in this category are:

- a) An Illinois Licensed Structural Engineer with experience at the typical level.
- b) A support staff of engineers with degrees in civil engineering and bridge design experience.
- c) Adequate computer support equipment and software.
- d) Firms qualifying for this category will be required to have staff experience in successfully completing the planning, design and contract plan development for a minimum of three bridge structures listed in this category; new continuous multi-span structure designs of various types are preferred.

(3) Advanced Typical

Description: Basic curved or flared bridges regardless of seismic zone, tall retaining walls requiring advanced analysis and non-standard support requirements and seismically “irregular”* structures which are otherwise structurally “typical”.

The minimum requirements for prequalification in this category are:

- a) Two (2) Illinois Licensed Structural Engineers; one SE with experience at the Advanced Typical level and the other SE with experience at the Typical level or higher.
- b) A support staff of engineers with degrees in civil engineering and design experience at the typical level.
- c) Adequate computer support equipment and software.
- d) Firms qualifying for this category will be required to have staff experience in successfully completing the planning, design and contract plan development for structures in at least three of the following categories: curved steel girder structures, flared girder bridges, “irregular” continuous multiple span bridges requiring multi-mode analysis, tall or unusual retaining walls requiring advanced analysis and non-standard support requirements, spandrel bridges, truss bridges with spans over 100 feet and other bridge types with spans over 200 feet. In addition, experience with repair projects of complex structures involving significant plan preparation and detailing, preparation of documents for non-standard structural temporary works or means and methods of

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construction, structural policy development, plan review oversight, and forensic engineering may be substituted for one of the three structure types listed above.

- e) In addition to d), firms will be required to demonstrate through either experience, training or education, the ability to perform a multi-mode seismic analysis.

* See the IDOT Bridge Manual section 3.15.3.2 "Seismic Design – Range of Applicability" for definitions of seismically "regular" and "irregular" bridges.

(4) Complex

Description: Regardless of seismic zone: complex curved girders, concrete and steel box girders, bridges or walls that require unique foundation treatment, expressway bridges with complex framing plans due to geometry requirements such as on/off ramps and the minor rehabilitation or repair of main structural components on major bridges.

The minimum requirements for prequalification in this category are:

- a) Three (3) Illinois Licensed Structural Engineers with at least one SE at the complex level and the other two SE's at least at the Advanced Typical level.
- b) An adequate support staff of engineers with degrees in civil engineering and design experience at the typical level.
- c) Adequate computer support equipment and software.
- d) Firms qualifying for this category will be required to have broad staff experience in successfully completing the design and contract plan development for three of the bridge structure types listed in this category.

b. Railroad Bridges:

Description: Temporary or permanent railroad bridges.

The minimum requirements for prequalification in this category are:

- (1) An Illinois Licensed Structural Engineer with railroad bridge experience and a support staff of engineers with civil engineering degrees;
- (2) Or an Illinois Licensed Structural Engineer with highway bridge experience at the "typical" level and a support staff of licensed professional civil engineers with railroad bridge experience.
- (3) Firms qualifying for this category will be required to have staff experience in successfully completing the design and contract plan development for three bridges listed in this category

c. Movable Bridges:

Description: Bascule, swing and lift type bridges.

The minimum requirements for prequalification in this category are:

- (1) An Illinois Licensed Structural Engineer with movable bridge experience.
- (2) A support staff of engineers with movable bridge experience.

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- (3) Adequate computer support equipment and software.
- (4) Firms qualifying for this category will be required to have staff experience in successfully completing the design and contract plan development for three bridges listed in this category.

d. Major Bridges:

Description: The design, major rehabilitation, or forensic investigation of long span structures. Typically, these structures are founded in deep moving water, have spans greater than 350', which require sophisticated analysis and design and knowledge of specialized construction techniques. Superstructure types include steel plate girder, steel box girder and orthotropic, tied arch, concrete box girder, suspension, continuous/cantilever truss and cable stay girders.

The minimum requirements for prequalification in this category are:

- (1) Prequalification in the HIGHWAY BRIDGES –COMPLEX Category
- (2) An Illinois Licensed Structural Engineer with "major bridge" experience and an adequate support staff of engineers with civil engineering degrees and "major bridge" experience in the structure type specified;
- (3) Adequate computer support equipment and software.

4. Special Plans

a. Traffic Signals

This work consists of engineering services necessary for the design of traffic signal systems, including preparation of plans, special provisions and cost estimates. Previous experience in the design of traffic signals is required for a prequalification rating in this category. Minimum personnel required is one Illinois Licensed Professional Engineer who understands the state-of-the-art of modern traffic signal systems, including knowledge of traffic signal hardware, traffic control equipment, vehicle detectors, traffic signal control strategy, and communication equipment. Consultant statements should provide some indication as to the complexity of the firm's traffic signal or design experience.

b. Lighting

The minimum requirements for prequalification in this category are one individual and support staff with a minimum of five years of lighting design experience in those areas listed below. In addition to design experience in roadway lighting systems, the individual shall have a thorough knowledge of the department's lighting policies and procedures (see Bureau of Design and Environment Manual Chapter 56). This person must be under the direct supervision of or be an Illinois Licensed Professional Engineer qualified to do electrical and roadway lighting design.

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This individual must be knowledgeable in all aspects of lighting circuit design and the proper application of the National Electrical Code (NEC). In addition, it is recommended that this person be an electrical engineer, an active member of the Illuminating Engineering Society of North America (IESNA), and lighting certified by the National Council on Qualifications for the Lighting Professions (NCQLP).

This individual shall be personally involved and directly responsible for the lighting system design. This shall include the photometric analysis, design calculations, and final plan review. Computer capabilities shall include the necessary software and supporting equipment to design highway lighting to the department's standards.

(1) Typical Lighting:

This work consists of the design of roadway lighting systems. The ability to complete lighting design by the firm's in-house **staff** must be demonstrated in all 5 lighting design areas in the last 10 years. The **firm** experience must show significant project experience in at least 3 of the 5 lighting design areas in the last 10 years.

1. Urban Arterial,
2. Streetscape,
3. Roundabout,
4. Underpass, and
5. Partial Interchange.

(2) Complex Lighting:

This work consists of the design of all roadway lighting systems. The ability to complete lighting design by the firm's in-house **staff** must be demonstrated in all of the categories for Typical Lighting (shown above) and in the 5 areas below in the last 10 years. The **firm** experience must show significant project experience in at least 3 of the 5 lighting design areas in the last 10 years.

1. Continuous Freeway,
2. Complete Interchange,
3. Major Urban Arterial,
4. Tunnel, and
5. Major River Bridge.

c. Pumping Stations

This work consists of engineering services required for and the preparation of plans, special provisions, and estimate of cost of pumping stations including pumps, motors, controls, and buildings. Minimum personnel requirements are one or more Illinois Licensed Professional Engineers with training and experience in hydrology, hydraulics, electrical and mechanical engineering and an Illinois Licensed Structural Engineer. The Firm must also be prequalified in the Electrical and Mechanical prequalification categories. Firm must also be prequalified in the Electrical Engineering and Mechanical Engineering categories to obtain prequalification in this category.

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B. SPECIAL STUDIES

This work consists of comprehensive studies of all factors and an evaluation of alternatives for the following:

1. Location Drainage – The scope of work includes hydrologic/hydraulic analyses for highway (roadway) drainage facilities. This work consists of the design of roadside ditches, smaller culverts, storm drains, inlet spacing, and storage pipes with restrictors. The design of storm drains includes hydraulic grade line analysis and inlet spacing. Detention basin design and energy dissipation design can also be included in project scope. Drainage facility design experience within a highway improvement setting is preferred, as opposed to property or site development projects.

The minimum requirements for prequalification in this category are:

- a. One full-time Illinois Licensed Professional Engineer with a minimum of five years of hydrologic and hydraulic computer modeling experience including:
 - (1) Thorough knowledge of the department drainage policies and procedures;
 - (2) Familiarity with the applicable permit rules of IDNR- OWR (Office of Water Resources) and other regulatory agencies; and
 - (3) Knowledge of common Illinois drainage laws.
 - b. One full-time staff engineer with a minimum of three years of hydrologic and hydraulic computer modeling experience.
 - c. Drainage knowledge and/or experience which can be demonstrated by prior satisfactory work performance for IDOT or one or more engineering staff members who have completed training in NHI (National Highway Institute) or equivalent hydraulic courses in the following topics: highway hydrology, open channel flow, culvert hydraulics, storage routing/detention basin design, inlet spacing and storm drain design.
 - d. A minimum of two staff engineers, in addition to b. above, with experience in highway hydraulics and hydrology are needed to accomplish the scope of work.
 - e. Adequate computer support equipment and software to design and draft highway drainage facilities.
2. Traffic - Traffic Studies consist of engineering services required to monitor and analyze the characteristics of motor vehicle or pedestrian traffic on and near roadways. This includes a wide variety of studies including, but is not limited to, the following:

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- a. Traffic impact studies,
- b. On-site traffic circulation plans,
- c. Motor vehicle classification counts/studies,
- d. Speed studies,
- e. Traffic performance measures,
- f. MUTCD warrant studies,
- g. Signal timing plans,
- h. Signalization in conjunction with intersection design studies and accident studies,
- i. Human behavior/reaction studies,
- j. Vehicle emissions and fuel consumption studies, and
- k. Benefit-cost analyses of proposed signal improvements.

(Note: Vehicle and pedestrian counts are considered part of data collection and do not include analysis or computations. Simply having performed traffic counts WILL NOT qualify a firm in Traffic Studies.)

The minimum requirements for prequalification in this category are one full-time Illinois Licensed Professional Engineer with demonstrated traffic study work experience and a support staff.

3. Signal Coordination and Timing (SCAT) - These studies include traffic data analysis, and running and interpreting computer programs for determining optimum traffic signal timing to optimize traffic flow on arterial and street networks.

The minimum requirements for prequalification in this category are:

- a. One full-time Illinois Licensed Professional Engineer with demonstrated SCAT work experience,
- b. Electronic submittal of one SCAT report.
- b. Adequate support equipment and software, and
- c. Support staff.

[SCAT work experience must include an understanding of traffic signal systems - hardware, control strategies and communications, experience with capacity and signal optimization software programs, and experience in traffic signal controller operation (including the ability to implement timings into controllers).]

4. Safety - Safety Studies include a thorough analysis and evaluation of the cause(s) of accidents and a recommendation of appropriate/effective counter-measures to eliminate them or reduce their frequency and severity.

The minimum requirements for prequalification in this category are one full-time Illinois Licensed Professional Engineer with demonstrated experience in conducting Safety Studies, and support staff.

5. Feasibility - Feasibility Studies identify whether or not a proposal is worthy of additional detailed engineering studies. These studies include a general engineering study with an overview of potential environmental impacts. Projects must be transportation related. Value Engineering and estimates of cost for projects are not considered a feasibility study.

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The minimum requirements for prequalification in this category are one full-time Illinois Licensed Professional Engineer with demonstrated experience in conducting Feasibility Studies and support staff.

C. LOCATION/DESIGN STUDIES

Location/Design Studies involve the development, evaluation, and documentation of engineering alternatives, which when combined with the Environmental Report will result in the selection of the alignment and design features with the best combination of social, economic, environmental, and engineering effects. The Location/Design and Environmental Reports must be developed simultaneously to assure proper cross-coordination of findings and objectives. Each Location/Design Report must describe the alternates considered and the reasons for selecting the recommended alternate. The description should include essential elements such as appropriate design standards, traffic volumes, typical cross-section, access control features, vertical and horizontal alignment, right-of-way requirements, intersection designs, general structure requirements, and an estimate of cost. The report must include appropriate maps and drawings, a list of policy exceptions (and supporting reasons), a summary of views received from coordination and public involvement, and a description of the proposal's effects on adjacent roads and streets. The sub-categories listed below represent three different levels of complexity for Location/Design Reports.

1. Rehabilitation

This involves development and evaluation of alternatives appropriate for rehabilitation of existing highways. It will include more than minor work such as geometric changes, bridge improvements, pavement rehabilitation, safety investigations, drainage analysis, and establishment of safety clear zones. It may include minor right-of-way acquisition throughout the project length.

Minimum personnel requirements are one Illinois Licensed Professional Engineer and appropriate support staff. Geometric design, drainage, and public involvement expertise are required.

2. Reconstruction/Major Rehabilitation

This involves development and evaluation of alternatives appropriate for reconstruction or a major rehabilitation of an existing highway. A project will basically follow the existing alignment, but may replace more than 50% of the existing pavement due to adjustments in horizontal or vertical alignment. It may include significant geometric changes, additional through lanes, bridge improvements or replacement, major intersection/interchange design, drainage analysis, and safety investigation. Public involvement will also be an integral part of the project. Significant amounts of additional right-of-way may be required. Minimum personnel requirements are an Illinois Licensed Professional Engineer and staff with expertise in geometrics, hydraulics, public involvement, and report writing. The project manager must have an Illinois Professional Engineer's license and prior managerial experience with two or more rehabilitation projects or one Reconstruction/Major Rehabilitation project. Other appropriate support staff is also required.

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3. New Construction/Major Reconstruction

This involves development and evaluation of alternatives appropriate for a new highway on new location and/or major reconstruction of an existing highway for which one alternate may be a totally new location. The entire range of expertise necessary to totally develop and design a new highway will be required. This will include establishment of horizontal and vertical alignment, intersection/interchange design, and development of a drainage plan including sizing structures. Other related expertise will be required including field surveying, public relations, estimating, earthwork calculations, and traffic capacity analysis. All new or significant amounts of additional right-of-way will be required throughout the project. Minimum personnel requirements are one Illinois Licensed Professional Engineer, one Illinois Licensed Structural Engineer and additional staff with expertise in geometrics, hydraulics, estimating, traffic analysis, public involvement, and report writing. The project manager must be an Illinois Licensed Professional Engineer and have prior managerial experience with two or more Reconstruction/Major Rehabilitation projects or one New Construction/Major Reconstruction project. Other appropriate support staff is also required.

D. HYDRAULIC REPORTS

1. Waterway

a. Typical

The scope of work includes hydrologic and hydraulic analysis and modeling for culverts and bridges. Hydraulic modeling includes these flow conditions; multiple openings\ encroachments within a shared or adjacent floodplain, pressure flow and roadway overtopping. Design considerations include scour evaluations (bridges) and outlet protection (culverts). Sediment transport and stream stability design are also potential design elements.

The consultant must be able to implement hydrologic techniques including USGS regression equations and stream gage weighting analysis.

The minimum requirements for prequalification in this category are:

- (1) One full-time Illinois Licensed Professional Engineer with a minimum of five years of hydrologic and hydraulic computer modeling experience, including:
 - a) Thorough knowledge of IDOT drainage policies and procedures contained primarily within the IDOT Drainage Manual;
 - b) Familiarity with the applicable permit rules of IDNR- OWR (Office of Water Resources) and other involved regulatory agencies; and
 - c) Knowledge of common Illinois drainage laws.
- (2) At least one full-time staff engineer with a minimum of three years hydraulic computer modeling experience.

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- (3) Hydraulic knowledge and/or experience which can be demonstrated by prior satisfactory work performance for IDOT, or one or more engineering staff members who have completed training in NHI (National Highway Institute) or equivalent hydraulic courses in the following topics: highway hydrology, culvert design, stream stability and scour at highway bridges, and HEC-RAS.
- (4) A minimum of two staff engineers, in addition to (2), with experience in highway and structure hydraulics and hydrology are needed to accomplish the scope of work.
- (5) Adequate computer support equipment and software including, but not limited to, HEC-2, HEC RAS, and WSPRO.

b. Complex

Complex culverts and bridges include the items in the scope of work for 1.a. Typical, as well as the application of hydrologic modeling tools such as HEC-1, HEC-HMS, and TR-20. For those models, the consultant must also be able to utilize State Water Survey (SWS) Bulletin 70 rainfall data for the purposes of performing critical storm duration analysis and reservoir/storage routing analyses.

Hydraulic modeling experience that includes complex floodplain geometry, urbanized settings with sensitive flood receptors, and floodplain management studies such as FEMA revisions, flood optimization studies, or FEQ-based watershed studies is desirable. Experience with SMS utilizing the SRH-2D model is also desirable. The specialty questionnaire should clearly demonstrate a level of project complexity within the firm's experience.

In addition to the minimum requirements above in 1.a., the consultant must have the computer support equipment to implement the hydrologic techniques of HEC-1, HEC-HMS, and TR-20. There should be at least one staff member who has completed NHI training (or equivalent) in HEC-1, HEC-HMS, TR-20.

2. Pump Station

The scope of work includes hydrologic/hydraulic analysis for a highway storm water pump station as described in the IDOT Drainage Manual. The work includes developing an inflow hydrograph to the station in conjunction with stage\storage and stage outflow data to route the design event through the pump station for existing and proposed conditions. The project typically includes assessing the existing storm drain collection system, hydraulic gradeline and design\analysis needed to upgrade the system to acceptable IDOT policy standards. Head losses, reservoir\storage routing, inlet spacing, weir\orifice pipe flow and energy gradeline determinations are typically involved. The questionnaire should demonstrate some experience and familiarity with the hydraulic design of highway storm water pumping stations in an urban setting.

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The consultant must be able to utilize SWS Bulletin 70 rainfall data for the purposes of performing critical storm duration analysis and reservoir \ storage routing analyses. The consultant must implement hydrologic models such as HEC-1, HMS or TR-20 to develop inflow hydrographs. Experience with a version of SWMM modeling package is desirable.

The minimum requirements for prequalification in this category are:

- a. One full-time Illinois Licensed Professional Engineer with a minimum of five years hydrologic and hydraulic computer modeling experience, including:
 - (1) Thorough knowledge of IDOT drainage policies and procedures contained primarily within the IDOT Drainage Manual.
 - (2) Knowledge of common Illinois drainage laws.
- b. At least one full-time staff engineer with a minimum of three years of hydrologic computer modeling experience.
- c. Hydraulic knowledge and/or experience which can be demonstrated by prior satisfactory work performance for IDOT or one or more engineering staff members who have completed training in NHI (National Highway Institute) or equivalent hydrology/hydraulic courses in the following topics: urban hydrology (including HEC-1, HEC-HMS and TR-20), storage routing/detention basin design, inlet spacing and storm drain design, and pump station design.
- d. A minimum of two staff engineers, in addition to b. above, with experience in highway hydraulics and hydrology are needed to accomplish the scope of work.
- e. Adequate computer support equipment and software including, but not limited to, HEC-1, HEC HMS, TR-20.

E. GEOTECHNICAL SERVICES:

1. Subsurface Explorations

Subsurface Explorations consists of engineering services necessary for obtaining subsurface geotechnical data to be utilized in geotechnical analyses and development of geotechnical reports. This typically includes coordination with the Geotechnical Engineer responsible for the geotechnical report or design, assisting in initial site/project reconnaissance, assisting in development of subsurface exploration plans, conducting subsurface explorations, laboratory testing of soil and rock, and reporting of the field explorations and laboratory test results.

Minimum personnel requirements are 1 Geotechnical Lead, 1 Field Drilling Supervisor, 1 Laboratory Supervisor, and support staff.

- The Geotechnical Lead shall be a full-time Illinois Licensed Professional Engineer with a minimum of five years of demonstrated experience in managing the efforts of staff and subcontractors, ensuring accuracy of geotechnical data, timely completion of services, performing the appropriate

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analysis, necessary interpretation and validation of soil and rock testing data, and determining the engineering properties of various subsurface materials using sound soil/rock mechanics. The firm's Geotechnical Lead shall also be familiar with IDOT's exploration and testing requirements, as set-forth in IDOT's Geotechnical Manual.

- The Field Drilling Supervisor must have a geology or geotechnical background and a minimum of three years of relevant experience in subsurface explorations/operations including split-spoon sampling, Standard Penetration and Rimac testing, Shelby tube soil sampling, rock coring, sample transportation, as well as soils and rock identification. The Field Drilling Supervisor is responsible for on-site drilling operations, describing/logging the soil/rock encountered, overseeing field testing and coordinating with the firm's Geotechnical Lead.

The Field Drilling Supervisor and the Laboratory Supervisor may be the Geotechnical Lead if that individual meets the background and experience requirements.

- The Laboratory Supervisor shall have a minimum of three years of experience in geotechnical laboratory testing procedures.

The firm is expected to employ sufficient geotechnical support staff, who may be engineers, geologists, or technicians, to assist the Geotechnical Lead on office and field work involved in developing and providing the project deliverables. It is expected that the firm will provide the project experience and specific geotechnical work completed by the individual Geotechnical Lead(s), Field Drilling Supervisor, Laboratory Supervisor, and geotechnical staff.

The firm shall demonstrate knowledge in subsurface investigations, drilling, sampling and testing conducted according to AASHTO/equivalent ASTM standard methods, or Illinois modified procedures as set-forth in IDOT's Geotechnical Manual and the Manual of Test Procedures for Materials.

The firm shall have sufficient facilities, equipment, and software to perform this work. If the firm is not also prequalified in at least one of the General Geotechnical Services, Structure Geotechnical Reports (SGR) or Complex Geotechnical/Major Foundations categories, then the firm shall own at least one of the following: 1) its own laboratory or 2) drilling equipment. Laboratory and drilling equipment shall meet the requirements in the following paragraphs.

The firm must own or subcontract the necessary soils and rock sampling equipment as well as sufficient support equipment to conduct subsurface drilling and obtain either split-spoon or Shelby tube samples. Drill rig(s) must be equipped with an automatic SPT hammer, which has been energy tested (ASTM D 4633) within the past five years, and the firm must provide documentation of the tested hammer energy and date for each drill rig. It is desirable for the firm to have additional geotechnical field testing capabilities beyond the routine exploration equipment, such as pressure meters, vane shear, cone penetrometer testing (CPT) rigs, geophysical, and others.

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The firm shall either own its own laboratory or subcontract with an independent testing facility with lab personnel proficient in the portions of the IDOT Geotechnical Manual dealing with laboratory testing. The firm's main/satellite or subcontractor's laboratory must have recent inspection results from AASHTO resource [formerly known as AASHTO Materials Reference Laboratory (AMRL)], for AASHTO test standards R 58, T 88, T 89, T 90, T 99, T 180, T 208, T 216, T 265, T 296, and T 297 (as a minimum) indicating compliance.

2. General Geotechnical Services

General Geotechnical Services consists of engineering services for geotechnical work typically pertaining to roadway widening or new alignments, pavements, earthwork, rock cuts, small culverts, small retaining walls, or other structures not requiring a Structure Geotechnical Report. This work generally includes coordination with the district and/or prime consultant, project/site reconnaissance, coordinating subsurface explorations and laboratory testing, geotechnical analyses, formulating recommendations, and preparing roadway or other geotechnical reports.

Minimum personnel requirements are 1 full-time Illinois Licensed Professional Engineer as the Geotechnical Lead and support staff. The Geotechnical Lead shall have demonstrated experience in projects dealing with geotechnical issues on roadway transportation projects described above. This individual must be familiar with IDOT's Geotechnical Manual, Subgrade Stability Manual, IDOT acceptable practices for subsurface treatments, and shall have prepared at least three geotechnical reports for federal, state or local transportation projects. These projects must demonstrate sound experience regarding evaluations and recommendations for geotechnical aspects of transportation such as subgrade treatments, embankments, slope stability, settlement, subsurface ground improvement, foundation design parameters, construction concerns, and feasibility of roadway alignment.

The firm is expected to employ sufficient geotechnical support staff, who may be engineers, geologists, or technicians, to assist the Geotechnical Lead on office and field work involved in developing and providing the project deliverables. It is expected that the firm will provide the project experience and specific geotechnical work completed by the individual Geotechnical Lead(s) and geotechnical staff. It is not required; however, it is desirable that the firm have geotechnical project experience beyond the projects listed under individual staff experience. Examples of such projects could include projects, which used staff no longer with the firm, or have moved into upper management or other positions. Including such projects in the firm experience demonstrates a history of providing similar geotechnical services to clients.

The firm shall also have sufficient facilities, equipment, and software to perform this work.

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3. Structure Geotechnical Reports (SGR)

This work consists of engineering services for developing geotechnical design parameters and recommendations for roadway transportation structures requiring a Structure Geotechnical Report. This generally includes coordination with the district and/or prime consultant, project/site reconnaissance, coordinating subsurface explorations and laboratory testing, performing analyses, formulating recommendations, and report preparation. Geotechnical recommendations for this work are typically developed for the design of structure foundations, bridge cone embankment, earth retention systems, noise abatement wall foundations, box culverts, and three-sided structures.

Minimum personnel requirements are 1 full-time Illinois Licensed Professional Engineer or Structural Engineer as the Geotechnical Lead and support staff. The Geotechnical Lead must have demonstrated experience in geotechnical/foundations engineering, be familiar with the most current IDOT Bridge Manual, Geotechnical Manual, IDOT's geotechnical policies, and shall have prepared at least three SGRs or similar foundation reports for federal, state or local transportation projects. These projects must demonstrate sound experience regarding evaluations and recommendations for geotechnical aspects of transportation structures such as foundation options, geotechnical and foundation design parameters, subsurface ground improvement, and construction issues.

The firm is expected to employ sufficient geotechnical support staff, who may be engineers, geologists or technicians, to assist the Geotechnical Lead on office and field work involved in developing and providing the project deliverables. It is expected that the firm will provide the project experience and specific geotechnical work completed by the individual Geotechnical Lead(s) and geotechnical staff. It is not required; however, it is desirable that the firm have geotechnical project experience beyond the projects listed under individual staff experience. Examples of such projects could include projects which used staff no longer with the firm, or have moved into upper management or other positions. Including such projects in the firm experience demonstrates a history of providing similar geotechnical services to clients.

The firm shall also have sufficient facilities, equipment, and software to perform this work.

4. Complex Geotechnical/Major Foundations

This work consists of engineering services utilizing advanced subsurface exploration and testing techniques, conducting complex subsurface/foundation modeling, performing advanced geotechnical/foundation analyses, evaluation, or design, preparing geotechnical reports for large transportation projects or major river bridges, and providing a sound and seasoned opinion and recommendations on unusual geotechnical or foundation issues. The ability to solve complex geotechnical/major foundation issues by the firm's in-house staff must be demonstrated in the following areas and require advanced analytical methods, studies, or innovative solutions:

- a. various difficult subsurface conditions;

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- b. failure analyses and repairs;
- c. forensic studies;
- d. state-of-the-art;
 - (1) exploration and testing methods,
 - (2) construction methods,
 - (3) soil and foundation modeling,
- e. tunnels in difficult subsurface soil and rock conditions; and
- f. specialized ground modification and improvement techniques.

The firm shall also demonstrate that they meet the requirements of Items E.2 and E.3 for General Geotechnical Services and Structure Geotechnical Reports above, as well as satisfy the following minimum requirements:

- a. The firm shall employ Geotechnical Leads with over 20 years of collective experience at the complex level. At least two of these employees shall be Geotechnical Leads who are full-time Illinois Licensed Professional Engineers with a minimum of ten years of experience at the complex level.
- b. The firm shall provide demonstrated experience with a minimum of three complex and premier projects that involved any of the complex issues described above and required innovative technologies/solutions.
- c. The firm shall have adequate support staff of engineers and other applicable professionals with experience in computer modeling, structure support, instrumentation equipment and software. The firm shall also have sufficient facilities, equipment, and software to perform this work.
- d. Firms are not specifically required to have experience outside the state of Illinois to become prequalified. However, firm experience outside the state is advantageous.

F. ENVIRONMENTAL REPORTS

Environmental Reports are prepared simultaneously with Location/Design Studies to assure that all environmental and engineering issues are considered in the decision-making process. Environmental Reports include all investigations and studies necessary to identify potential adverse impacts of proposed projects, evaluate their likely significance, and recommend mitigation actions to reduce their severity. Regulations require that an environmental assessment (EA) or environmental impact statement (EIS) be prepared for federally-assisted or regulated projects unless they are categorically excluded. Criteria for prequalification in **EA** and **EIS** are listed below.

1. Environmental Assessment (EA)

This category includes projects anticipated to include one or more of the following environmental issue areas: agricultural lands; wetlands; floodplains; sensitive biological resources (e.g., threatened or endangered species, nature preserves, or natural areas); cultural resources (archaeological and historical resources or structures); candidate Wild and Scenic Rivers; Section 4(f) lands; or other sensitive environmental resources of public concern. More than one technical

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environmental study will generally be necessary. The EA is expected to result in a Finding of No Significant Impact (FONSI).

To be prequalified for EA, firms must satisfy all requirements for **Environmental Leads** and **Qualified Environmental Staff**, which include:

- a. Employing a full-time **Environmental Lead** (subconsultants are not allowed) who meets the education, training, and experience for EA prequalification; and
- b. Designating **Qualified Environmental Staff** for Socio-economics/Community Impacts, Ecology, Noise, Water, Public Involvement, and Technical Writing.

Environmental Lead

Requirements to be pre-qualified as an Environmental Lead at the EA level are listed in the table below.

Qualified Environmental Staff

Staff or subconsultants who meet the requirements listed in the table below must be designated for each environmental discipline:

- Socio-economics/Community Impacts
- Ecology
- Noise
- Water

Qualified staff also must be assigned for:

- Public Involvement
- Technical Writing

No person may be assigned more than three disciplines. Resumes should reflect specific NEPA project experience and must include certificates of completion for all training classes. **Important Note:** All members of your firm's staff **AND all subconsultants** employed by other firms that you propose to assign for any environmental discipline must FIRST be entered as "**NEW STAFF**" on the **Corporate Profile/Staff screen in EPAS**. For each subconsultant, the following employment-related questions on the **Staff Information** screen must be completed EXACTLY AS FOLLOWS: Is full time? **NO**. Is consultant? **YES**. Next, the **CONSULTING FIRM NAME (the subconsultant's EMPLOYING FIRM)** must be listed as shown on page 68 of the EPAS Instruction Manual. Failure to follow these instructions and enter all subconsultant data correctly in EPAS will result in your submittal being denied.

2. Environmental Impact Statements (EIS)

This category includes major transportation-related developments that will involve a large number of displacements, or substantial disruption to local traffic patterns and result in potentially significant impacts to one or more of the following special environmental issue areas: agricultural lands; wetlands; floodplains; sensitive biological resources (e.g., threatened or endangered species, nature preserves, or natural areas); cultural resources (archaeological and historical resources and

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historic structures); candidate Wild and Scenic Rivers; Section 4(f) lands; and other sensitive environmental resources of public concern. Technical analyses of environmental studies are likely to be necessary, resulting in the identification of adverse impacts, suitable mitigation measures, and preparation of an EIS.

To be prequalified for EIS, firms must satisfy all requirements for **Environmental Leads** and **Qualified Environmental Staff**, which include:

- a. Employing a full-time **Environmental Lead** (subconsultants are not allowed) who meets the education, training, and experience for EIS prequalification; and
- b. Designating **Qualified Environmental Staff** qualified for (Socio-economics /Community Impacts), Ecology, Noise, Water, Public Involvement, and Technical Writing.

Environmental Leads

Requirements to be prequalified as an Environmental Lead at the EIS level are listed in the table below.

Qualified Environmental Staff

Staff who meet the requirements listed in the table below must be designated for each environmental discipline:

- Community Impacts/Socio-Economic
- Ecology
- Noise
- Water

Qualified staff also must be assigned for:

- Public Involvement
- Technical Writing

No person may be assigned more than three disciplines. For EIS, at least two disciplines must be assigned to qualified in-house staff other than the Environmental Lead. Qualified subconsultants are acceptable for the remaining two disciplines. Since extensive experience is required for EIS prequalification, resumes should reflect specific NEPA project experience and include certificates of completion for all training classes. **Important Note:** All members of your firm's staff **AND all subconsultants** employed by other firms that you propose to assign for any environmental discipline must FIRST be entered as "**NEW STAFF**" on the **Corporate Profile/Staff screen in EPAS**. For each subconsultant, the following employment-related questions on the **Staff Information** screen must be completed EXACTLY AS FOLLOWS: Is full time? **NO**. Is consultant? **YES**. Next, the **CONSULTING FIRM NAME (the subconsultant's EMPLOYING FIRM)** must be listed as shown on page 68 of the EPAS Instruction Manual. Failure to follow these instructions and enter all subconsultant data correctly in EPAS will result in your submittal being denied.

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Environmental Lead Requirements
<p>Education: Minimum of B.S. in Urban Planning, Land Use Planning, Geography, Environmental Sciences/Studies or allied (natural/physical environmental resources) disciplines, or Engineering.</p> <p>Required Training Class: NHI course #142005, "NEPA & the Transportation Decision making Process" or comparable \geq 18-hour course (a syllabus of the comparable course may be required). Certificate of completion must be provided.</p> <p>Experience: Must include serving as <u>Environmental Lead</u> for required number of completed NEPA documents:</p> <p>EA: One or more transportation-related EA; two or more transportation-related ECADs*; or one or more transportation-related EIS in the last 10 years.</p> <p>EIS: Two or more transportation-related EAs; or four or more transportation-related ECADs*; or one or more transportation-related EIS in the last 10 years.</p> <p>The <u>Environmental Lead</u> is the person that managed or oversaw the preparation of the NEPA environmental document (EA, EIS, or ECAD*). Only one person may receive credit as the Environmental Lead of any NEPA document. For EAs and ECADs, submit the signed cover page or signed FONSI. For EISs, submit the signed cover page and EIS List of Preparers. All signed cover pages, FONSI and EIS List of Preparers submitted as evidence must have been completed in the last 10 years.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Subconsultants are not allowed as Environmental Leads. • Highway experience is preferred, but airport, transit, and other transportation projects may be submitted for possible credit.
Environmental Discipline Requirements
<p>a) Socio-economics or Community Impacts:</p> <p>Education: Minimum of B.S. in Economics, Urban, or Land Use Planning, Geography or related degree.</p> <p>Experience shall include community studies (including demographics), regional economics or land use/urban planning. All NEPA experience should be detailed.</p> <p>b) Ecology:</p> <p>Education: Minimum of B.S. in Biology, Botany, Plant Ecology, Soil Science, Zoology, Wildlife Biology, or allied discipline.</p> <p>Experience shall include knowledge of biological field surveys and wetland delineations. Provide certification of wetland delineation training.</p> <p>c) Noise:</p> <p>Education: Minimum of B.S. in Acoustical or Civil Engineering, Environmental Sciences/Studies, or allied discipline.</p> <p>Required Training Classes: NHI course #142051, "Highway Traffic Noise" or comparable \geq 18-hour course (a syllabus of the comparable course may be required); and an FHWA Traffic Noise Model course. Certificates of completion must be provided.</p> <p>Experience shall include prediction and/or measurement of highway noise levels, analysis,</p>

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and/or design of abatement measures, and documentation of analysis results. Specific project experience should be provided.
d) Water: Education: Minimum of B.S. in Aquatic Biology, Biology, Limnology, or allied discipline. Experience shall include knowledge of at least two of the following: 1) fish, 2) mussels, 3) Stochastic Empirical Loading and Dilution Model (SELDL), or 4) aquatic macroinvertebrate populations.
e) Public Involvement and Technical Writing Requirements: Persons assigned for Public Involvement and Technical Writing must have knowledge and experience in these areas. (Refer to Chapter 19 of the Bureau Design and Environment (BDE) Manual for Public Involvement guidelines and duties.) Environmental Leads and/or other experienced staff may be designated to handle Public Involvement and/or Technical Writing.

**IDOT previously used the Environmental Class of Action Document (ECAD) as documentation of environmental impacts to aid in NEPA classification. While the ECAD report is no longer in use, ECADs may be submitted for consideration as Firm or Environmental Lead experience (2 ECADs = 1 EA).*

G. SPECIAL TRANSPORTATION STUDIES

1. Mass Transit

Mass Transit work consists of the planning and design of operating systems for the effective movement of people. This includes sociological studies, corridor and terminal design and vehicle selection. Experience in the design of rail or mass transportation is required for prequalification. Minimum personnel requirements are one experienced Illinois Licensed Professional Engineer and support staff.

2. Railway Engineering

This consists of the inspection, evaluation, design, and cost/quantity estimation of existing or potential railway track and structures. The firm is required to have experience in the design, construction, and rehabilitation of track for prequalification. Minimum personnel requirements are; one Illinois Licensed Professional Engineer with Class I Railroad carrier engineering experience in design, construction and rehabilitation of mainline railroad track and all necessary support staff.

H. SPECIAL SERVICES

1. Surveying

This consists of measurements, calculations, and field work necessary to establish line and grade for a specific transportation improvement. Surveys also include topographic surveys, determining boundaries, writing descriptions of specific parcels of land and the installation and restoration of monuments. Minimum personnel requirements are one Illinois Licensed Professional Land Surveyor and support staff.

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2. Aerial Mapping and LiDAR

Aerial Mapping consists of acquiring and developing aerial photographs suitable for mapping, planning studies, and the development of precise topographic maps and related photogrammetric products based upon information obtained from the aerial photography. Minimum requirements are one Illinois Licensed Professional Engineer or Professional Land Surveyor or a Certified Photogrammetrist and support staff.

LiDAR consists of obtaining and processing aerial and/or terrestrial LiDAR data to provide digital elevation data. Minimum requirements are one Illinois Licensed Professional Engineer or one Professional Land Surveyor or a Certified Photogrammetrist and support staff with training and experience in LiDAR data collection and processing.

3. Electrical Engineering

This consists of the design of electrical components of transportation facilities. Minimum personnel requirements are one Illinois Licensed Professional Engineer with training and experience in electrical engineering.

4. Mechanical Engineering

This consists of the design of mechanical components of transportation facilities. Minimum requirements are one Illinois Licensed Professional Engineer with training and experience in mechanical engineering.

5. Sanitary Engineering

This may consist of the analysis of various waste material and the design and application of storm water and waste disposal facilities to handle and dispose of such. Experience in moving, relocating, and/or establishing sanitary sewers through and/or in roadway systems is required. Minimum requirements are one Illinois Licensed Professional Engineer with training and experience in sanitary engineering.

6. Architecture

This consists of the design and preparation of plans, special provisions, and estimate of cost for the construction of transportation related buildings, such as bus /train stations, airport terminal, Tollway plaza, etc. Minimum personnel requirements are one Illinois Licensed Architect and support staff.

7. Landscape Architecture

This consists of the preparation of plans, special provisions, and estimate of cost for aesthetically pleasing landscape features. Experience in landscaping along roadways, freeways and other transportation facilities is required. Minimum personnel requirements for prequalification are one Illinois Licensed Landscape

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Architect, Illinois Licensed Architect, and/or an Illinois Licensed Professional Engineer with training and experience in landscape architecture and support staff.

8. Hazardous Waste

Hazardous Waste: Simple

A variety of sites may be assessed (e.g., residential, commercial/industrial sites, chemical manufacturing sites, vehicle service stations, storage sites and buildings, structures containing potential contamination, and spills in IDOT yards). Additional work may include conducting surveys and testing of stored materials, tank contents, and containers to determine whether hazardous waste, special waste, or hazardous materials are present.

Provisions for laboratory and field testing including geophysical methods will be required for a variety of hazardous and non-hazardous wastes including, but not limited to water quality parameters.

Evaluation, summarizations, and reporting on preliminary site investigations, petroleum-related leaking underground storage tanks (LUSTs), laboratory analysis, and remedial designs, as well as construction oversight activities may be included as an important part of this work.

For a firm to be prequalified in this area of specialization, the following must be fully met: (a) office location and organization, (b) minimum firm experience, (c) minimum staff experience, and (d) equipment/support services, as described below.

a. Office location and organization

1. List the office(s) from which the majority of IDOT work will be accomplished. That is, key management and technical staff proposed to work on any part of the contract must be stationed at this office location. Specialized expertise from outside offices utilized intermittently during the study, design or implementation of projects is allowed and should be included.
2. Provide an organizational chart showing the administrative/management of the office and a flow chart of key personnel, professional and technical, and offices that would most likely be involved in the project(s). The organizational chart shall specifically identify the Illinois Licensed Professional Engineer(s) and/or Illinois Licensed Professional Geologist(s). Similarly, subconsultant(s) location and organization shall be detailed in this section. The staff should match those listed in Section c, Minimum Staff Experience. Also, two additional documents shall be added as supplemental pages to the organizational chart; see Sections b (Minimum firm experience) and c (Minimum staff experience) for details on the cross-referenced table/matrix.

- b. Minimum firm experience** requires the successful completion as the prime consultant of the following:

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1. Seven or more of the following types of projects completed within the past 10 years:
 - a. One (1) RCA
 - b. One (1) LUST (using 35 Illinois Administrative Code [IAC] 742 Tier 2 or Tier 3 analysis)
 - c. One (1) SRP (under 35 IAC 740 using 35 IAC 742 Tier 2 or Tier 3 analysis)
 - d. One (1) RD
 - e. One (1) RCO
 - f. Two (2) other types of environmental-related projects.

To facilitate IDOT review of minimum firm experience, the firm shall present each project description with a numerical identification. The firm shall provide a cross-referenced table / matrix listing the project type (i.e., RCA, LUST, SRP, RD, RCO, other), project name (name, brief description, location, and regulatory reference ID #), year project was completed, and the staff names. The table/matrix shall be titled "Table 1 - Firm Experience" and can be added as a supplemental page to the organization chart.

- c. Minimum staff experience includes the following technical groups of which at least one individual must be an Illinois Licensed Professional Engineer or an Illinois Licensed Professional Geologist.

1. Administrative/Managerial Staff – (Responsible for the day-to-day supervision of work assignments, efficient utilization of resources, client satisfaction, and project budgets).

Two or more individuals with five or more years of direct experience in the following skill sets:

- a. RCA – Resource Conservation and Recovery Act (RCRA) Corrective Action
- b. LUST – Petroleum-related Leaking Underground Storage Tank cleanup in Illinois
- c. SRP – Site Remediation Program cleanup in Illinois
- d. RD – Remedial Design
- e. RCO – Remedial Construction Oversight

2. Technical/Professional Staff – (Responsible for performing technical tasks for the projects).

Two or more individuals with three or more years of direct experience in the following skill sets: LUST, SRP, RD, and RCO.

3. Investigation Field Staff

Two or more individuals, each with two or more years of experience in environmental sampling/measurement activities.

To facilitate IDOT review of minimum staff requirements, the firm shall provide a cross-referenced table / matrix listing the staff names in each of the three staffing

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groups, their respective project type experience, professional license(s), if any, and years of experience. The document shall be titled "Table 2 - Staff Experience" and can be added as a supplemental page to the organizational chart.

d. Minimum equipment/support services:

1. PPE: List five important pieces of personal protection equipment (levels D, C and B) the firm should have readily available to conduct investigations, remediation, and oversight.
2. Measuring & Sampling: List ten critical pieces of physical/chemical/geophysical measurement and sampling equipment the firm should have readily available to conduct investigations, remediation, and oversight.
3. Chemical Testing: In-house capability or established working and/or contractual relationships with an environmental testing laboratory. The environmental laboratory (ies) must be accredited by IEPA under 35 Illinois Administrative Code 186.
4. Physical Testing & Drilling: In-house capability or established working and/or contractual relationship with physical, geophysical, and drilling companies to conduct investigations, remediation, and oversight.

Additional information for SEFC preparation

- Each project description should clearly indicate, at a minimum:
 - One IDOT project category, i.e., RCA, LUST, SRP, RD, RCO, Other.
 - The year project began and was completed.
 - Client contact person and phone #. It is acceptable to mark as confidential but still must provide contact name and phone. IDOT must have a way to check references.
 - IEPA program reference number for LUST and SRP projects.
- For minimum firm experience, identify only one category per project description. Thus, there must be at least seven (7) unique project descriptions.
- Ensure the project description and scope of work are germane and specific to the chosen category.
- Project Description: Provide a concise description of the overall project. It is unnecessary to repeat the same information in the Scope of Work section.
- Scope of Work: Describe the specific services the firm provided that are applicable and responsive to the particular category. Do not repeat the same information in the Project Description section.

Hazardous Waste: Advance

A variety of sites may be assessed (e.g., old, abandoned, or improperly closed dumps, chemical manufacturing sites, metal plating/fabricating sites, dry cleaning/service stations, storage sites and buildings, structures containing potential contamination, spills in IDOT yards, and screening for the presence of

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radionuclides). Additional work may include conducting surveys and testing of stored materials, tank contents, and containers to determine whether hazardous waste, special waste, or hazardous materials are present, conducting environment compliance audits and developing or maintaining environmental management systems.

Provisions for laboratory and field testing including geophysical methods will be required for a wide variety of hazardous and non-hazardous wastes including, but not limited to water quality parameters, poly-chlorinated biphenyls (PCBs), pesticides, heavy metals, organics, and radioactive wastes.

Evaluation, summarizations, and reporting on preliminary site investigations, petroleum-related leaking underground storage tanks (LUSTs), asbestos assessments, laboratory analysis, and remedial designs, as well as construction oversight activities may be included as an important part of this work.

For a firm to be prequalified in this area of specialization, the following must be fully met: (a) office location and organization, (b) minimum firm experience, (c) minimum staffing experience, and (d) equipment/support services, as described below.

a. Office location & organization:

1. List the main office from which the majority of IDOT work will be accomplished. That is, key management and technical staff proposed to work on any part of the contract must be stationed at this office location. Specialized expertise from outside offices utilized intermittently during the study, design or implementation of projects is allowed and should be included.
2. Provide an organizational chart showing the administrative/management of the office and a flow chart of key personnel, professional and technical, and offices that would most likely be involved in the project(s). The organizational chart shall specifically identify the Illinois Licensed Professional Engineer(s) and Illinois Licensed Professional Geologist(s). Similarly, subconsultant(s) location and organization shall be detailed in this section. The staff should match those listed in Section C, Minimum Staff Experience. Also, two additional documents shall be added as supplemental pages to the organizational chart; see Sections b (Minimum firm experience) and c (Minimum staff experience) for details on the cross-referenced table/matrix.

b. Minimum firm experience requires the successful completion as the prime consultant of the following:

1. Ten or more of the following types of projects completed within the past 10 years:
 - a. one (1) Remedial Investigation/Feasibility Study (RI/FS) (using CERCLA/SARA procedures),
 - b. one (1) RCRA Corrective Action (RCA),

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- c. one (1) Remedial Design (RD),
 - d. one (1) Remedial Construction Oversight (RCO),
 - e. two (2) Site Remediation Programs (SRPs) (under 35 Illinois Administrative Code (IAC) 740, and at least one (1) using 35 IAC 742 Tier 2 or Tier 3 analysis), and
 - f. two (2) Leaking Underground Storage Tanks (LUSTs) (both using 35 IAC 742 Tier 2 or Tier 3 analysis).
 - g. two other types of projects (RI/FS, RCA, RD, RCO, SRP or LUST using Tier 2 or Tier 3, ECA, EMS, Risk Assessment [RA], or Construction Oversight [CO]).
2. In addition to the above projects, five of the following types of projects completed within the past **10 years**:
- a. four (4) Environmental multi-media Compliance Audits (ECA) on industrial or governmental facilities, and
 - b. development of an (1) Environmental Management System (EMS).

To facilitate IDOT review of minimum firm experience, the firm shall present each project description with a numerical identification. The firm shall provide a cross-referenced table/matrix showing the project identification and name (and brief description location, and regulatory ID number, year project was completed, and the staff names) versus the project type (e.g., RI/FS, RCA, RD, LUST, etc.). Include the client name and telephone number for every project description. For LUST and SRP project descriptions, include the IEPA program tracking reference numbers. The cross-reference table/matrix shall be titled "Table 1 - Firm Experience" and can be added as a supplemental page to the organizational chart.

- c. Minimum staff experience includes the following technical groups of which one individual must be an Illinois Licensed Professional Engineer and one individual must be an Illinois Licensed Professional Geologist:

1. Administrative/Managerial Staff - (Responsible for the day-to-day supervision of work assignments, efficient utilization of resources, client satisfaction, and project budgets).

Three or more individuals, each with five or more years of direct experience in the following skill sets:

- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA/SARA),
- Remedial Investigation/Feasibility Studies (RI/FS's),
- Resource Conservation and Recovery Act (RCRA),
- Facility Inspections (RFI's),
- RCRA Corrective Action (RCA),
- Remedial Designs (RD's),
- Remedial Construction Oversight (RCO),

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- Site Remediation Program (SRP) cleanups in Illinois,
 - Petroleum-related Leaking Underground Storage Tank (LUST) cleanups in Illinois,
 - Environmental multi-media Compliance Audits (ECA's), and
 - Environmental Management Systems (EMS).
2. Technical/Professional Staff - (Responsible for providing technical direction for the project(s), and effective management of technical support staff, project schedule(s), and budget(s)).
- a Four or more individuals, each with five or more years of direct experience in CERCLA/SARA, RI/FS's, RFI's, RCA, RD's, RCO, SRP, and petroleum-related LUST cleanups in Illinois, ECA's, and EMS.
 - b. Three or more individuals, each with four or more years of direct experience in CERCLA/SARA, RCA, RDs and RCO.
3. Investigation Field Staff - Four or more individuals, each with three or more years of experience in environmental sampling/measurement activities.

To facilitate IDOT review of minimum staff requirements, the firm shall provide a cross-referenced table/matrix listing the staff names in each of the three staffing groups, their respective project type experience, professional license(s), if any, and years of experience. The document shall be titled "Table 2 - Staff Experience" and can be added as a supplemental page to the organizational chart.

- d. Minimum equipment/support services:
- 1. PPE: Personal protection equipment (levels D, C and B) to conduct investigations and remediations.
 - 2. Measuring & Sampling: Physical/chemical/geophysical measurement and sampling equipment to conduct investigations and remediations.
 - 3. Chemical Testing: In-house capability or established working and/or contractual relationships with an environmental testing laboratory. The environmental laboratory (ies) must be accredited by IEPA under 35 Illinois Administrative Code 186.
 - 4. Physical Testing & Drilling: In-house capability or established working and/or contractual relationship with physical, geophysical, and drilling companies to conduct investigations, remediation, and oversight.

Additional information for SEFC preparation

- Each project description should clearly indicate, at a minimum:
 - One IDOT project category, i.e., ECA, RI/FS, LUST, SRP, Other, etc.
 - The year project began and was completed.

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- Client contact person and phone #. It is acceptable to mark as confidential but still must provide contact name and phone. IDOT must have a way to check references.
- IEPA program reference number for LUST and SRP projects.
- Identify only one category per project description. Thus, there must be at least fifteen (15) unique projects.
- Ensure the project description and scope of work are germane and specific to the chosen category.
- Project Description: Provide a concise description of the overall project. It is unnecessary to repeat the same information in the Scope of Work section.
- Scope of Work: Describe the specific services the firm provided that are applicable and responsive to the particular category. Do not repeat the same information in the Project Description section.

9. Asbestos Abatement Surveys

Services are required to perform asbestos surveys of buildings requiring demolition. This work will include review of existing data, a building survey, asbestos sampling and analysis and preparation of a report summarizing the location and description of the identified asbestos, quantities, and a preliminary estimate of abatement costs.

For a firm to be prequalified in this area of specialization, the following minimum firm experience, staffing requirements, and equipment/support services must be fully met:

- a. Minimum firm experience requires the successful completion as the prime consultant of ten or more asbestos abatement surveys in the last ten years.
- b. Minimum staff requirements include the following of which one individual must be an Illinois Licensed Professional Engineer and/or Architect:

- (1) Administrative/Managerial Staff - (Responsible for the day-to-day supervision of work assignments, efficient utilization of resources, and client satisfaction).

One or more individuals, each with five or more years of direct experience in conducting Asbestos Abatement Surveys.

- (2) Technical/Professional Staff - (Responsible for providing technical direction for the project(s), and effective management of technical support staff, project schedule(s), and budget(s)).

Two or more individuals, each with five or more years of direct experience in Asbestos Abatement Surveys. These individuals must also be licensed by the Illinois Department of Public Health (IDPH).

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- c. Minimum equipment/support services include in-house capability or established working relationship with a laboratory accredited by the American Industrial Hygiene Association (AIHA) to conduct asbestos analyses.

10. Construction Inspection

Construction Inspection work consists of staking, material testing and inspection, documentation of materials and quantities, record keeping and enforcement of specifications applicable to a contractor's work on construction projects. As a prerequisite for a Construction Inspection prequalification rating, a consultant must have:

- a) An in-house full-time employee who has experience in the position of Resident Engineer, or equivalent experience, in construction work under IDOT specifications and has a working knowledge of IDOT specifications and procedures.
- b) One or more in-house full-time employees who have a working knowledge of IDOT specifications and documentation procedures for the inspection of work and a current certificate for the successful completion of the IDOT Construction Documentation of Contract Quantities class. A current IDOT Construction Documentation of Contract Quantities certification number must be included. It is desired the current IDOT Construction Documentation of Contract Quantities certificate also be attached.
- c) Trained technicians who have experience and a working knowledge in the area of Hot Mixed Asphalt (HMA), Portland Cement Concrete (PCC), and Soils testing are highly desirable. All personnel performing materials field testing for PCC (air, slump, making strength specimens, sampling, and temperature) and HMA (density and temperature) should have successfully completed the appropriate QC/QA trained technician classes. Personnel performing field testing for Soils (density) shall have completed IDOT Class STTP S-33 for Soils Field Testing and Inspection, formerly known as "Standard Earth Density."
- d) Access to IDOT approved testing equipment for PCC, HMA, Aggregates, and Soils according to the "Manual of Test Procedures for Materials."
- e) Either a full time employee with experience as a survey party chief and adequate survey equipment or a subconsultant prequalified in surveying.

11. Quality Assurance Testing

a. Services

A quality assurance plan following the BDE Manual Chapter 8-6 "Quality Assurance/Quality Control Guidelines for Work by Consulting Engineers" is required. Services include managing the Quality Assurance (QA) requirements for Hot Mix Asphalt (HMA) and Portland Cement Concrete (PCC) Quality Control/Quality Assurance (QC/QA) projects according to the

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Standard Specifications for Road and Bridge Construction and any applicable contract special provisions.

Services also include coordination of QA activities with the contractor and the Engineer, QA field and lab tests, inspection of the contractor's QC activities, reporting of results and investigations of tests when required by the contract.

b. Personnel Requirements

Project Manager - Minimum personnel requirements include a qualified project manager who shall be an Illinois Licensed Professional Engineer and who shall manage the required QA activities and tests at the specified Quality Assurance laboratory listed in the SEFC application. The Project Manager shall be a full time employee at the QA laboratory. The project manager must have successfully completed the following classes:

(1) QC/QA Training Classes

- a) HMA Level I, II, and III Mix Design classes and the Superpave upgrade class (if the original class preceded the inclusion of Superpave),
- b) PCC Level I, II, and III Mix design Classes,
- c) Aggregates – Aggregate classes are in addition to the HMA and/or PCC QC/QA Training classes. They include the three-day Mixture Aggregate Technician Course or the 5-day Aggregate Technician Course.

(2) Specific Task Training Program Classes

- a) S-14 Construction Documentation
- b) S-33 Soils Field Testing and Inspection

- (3) Field Supervisor/Lab Manager – The project manager shall indicate on the SEFC who, if other than the project manager, oversees operation of field technicians, or laboratory activities. The project manager shall document the person's time in their position, as well as their experience and education.

(4) Field/Lab Technicians

Personnel directly in charge of sampling and testing should have a minimum of 3 years (field) and/or 5 years (lab) of relevant experience in HMA designs. Personnel coordinating QA activities for PCC projects should have at least two years of experience in field tests and observations. The consultant shall provide a list of all current technical employees who have received training through the QC/QA program and/or the Specific Task Training program offered by IDOT. The list shall include all attendance dates as well as a Pass (P) or Fail (F) notification document.

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c. Laboratory and Equipment

The consultant shall have an IDOT approved PCC/Aggregate, or HMA/Aggregate laboratory as indicated in the advertisements for offers of interest for professional services. The laboratory and equipment shall be approved according to the current Bureau of Materials and Physical Research (BMPR) Policy Memorandum, "Minimum Private Laboratory Requirements for Construction Materials Testing or Mix Design."

The laboratory indicated in the advertisement for offers of interest for professional services shall be accredited according to the AASHTO Accreditation Program (AAP) for those procedures specified for the type(s) of laboratory in the BMPR Policy Memorandum, "Minimum Private Laboratory Requirements for Construction Materials Testing or Mix Design." They shall also participate in **ALL** proficiency testing specified for the type(s) of laboratory in the policy memorandum as well. The project manager (or designee) shall add IDOT as a specified on the AASHTO website, allowing IDOT access to the laboratory's proficiency test results. The effected date for IDOT to have access to proficiency test results shall be rolled back as far as possible for each test procedure on the AASHTO website.

The Consultant shall also have IDOT-approved testing equipment for PCC and HMA field tests according to the "Manual of Test Procedures for Materials." PCC field testing includes air, slump, making strength specimens, sampling, temperature, and self-consolidating concrete tests. HMA field testing includes density and temperature. The Manual of Test Procedures for Materials may be downloaded from the website under the Bureau of Materials Section.

12. Subsurface Utility Engineering

Services include the utilization of ASCE 38 "Standard Guideline for Collection and Depiction of Existing Subsurface Utility Data." Responsibilities include highly efficient, nondestructive engineering incorporating civil engineering, surface geophysics, surveying and mapping, nondestructive vacuum excavation, and asset management technologies to identify and classify quality levels of existing subsurface utility data as well as map the locations of the underground utilities. The projects will involve research, field investigations, test holes, plotting design, engineering analysis and recommendations relative to impacts on existing or proposed utilities. The consultant must be able to complete the following four levels of subsurface utility engineering:

Level A:

Precise horizontal and vertical location of utilities obtained by the actual exposure and subsequent measurement of surface utilities, usually at a specific point. Minimally intrusive excavation equipment is typically used to minimize the potential for utility damage. A precise horizontal and vertical location, as well as other utility attributes, is shown on plan documents. Accuracy is typically set to 15-mm vertical and to applicable horizontal survey and mapping accuracy as defined or expected by the project owner.

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Level B:

Information obtained through the application of appropriate surface geophysical methods to determine the existence and approximate horizontal position of subsurface utilities. Quality level B data should be reproducible by surface geophysics at any point of their depiction. This information is surveyed to applicable tolerances defined by the project and reduced onto plan documents.

Level C:

Information obtained by surveying and plotting visible above-ground utility features and by using professional judgment in correlating this information to quality Level D information.

Level D:

Information derived from existing records or oral recollections.

The consultant is also required to have the following:

- a. Experience in researching the location of utilities, above and underground.
- b. Knowledge of the equipment/techniques necessary to locate the utilities.
 - (1) Surface geophysical techniques, such as, electromagnetic, magnetic, sonic, etc.
 - (2) Excavation by use of test holes using vacuum excavation or comparable non-destructive equipment.
- c. The ability to determine the extent the proposed roadway improvement impacts the existing utilities.
- d. The ability to provide staff and equipment for simultaneous projects at multiple locations.
- e. A project manager and project engineer who have adequate experience in managing subsurface underground engineering projects.
- f. One Illinois Licensed Professional Engineer and support staff.

ADVOCACY

QUALIFICATIONS-BASED SELECTION RESOURCE CENTER

QBS Awards Program

- [2018 QBS Awards Nomination Instructions & Form \(Word version\)](#)
- [2018 QBS Awards Nomination Instructions & Form \(.pdf version\)](#)

Issue

In 1972, Congress adopted the Brooks Act (P.L. 92-582), requiring the use of Qualifications-Based Selection (QBS) for the procurement of architect and engineering services. The use of QBS ensures that federal agencies — and the taxpayer — receive highly technical architect and engineering services from the most experienced and most qualified firms at a fair and reasonable cost. QBS is used by all federal agencies, 46 state governments, and many localities throughout the country. It works because:

1. **QBS protects the public welfare.** Most individuals would not select medical or legal services based solely on cost — these highly skilled services are too important to leave to the lowest bid. Likewise, engineering is a highly skilled service that should not be selected on basis of the firm offering the cheapest price. Engineers design the highways and bridges we drive on, our water treatment systems, and all other infrastructure and systems upon which we rely. The design services provided by engineering firms directly affect the health, safety and welfare of the public, and it is important that only the most qualified and experienced firms be tasked with this critical function.
2. **QBS protects the taxpayer.** Over the life of a project, engineering services account for less than one-half of one percent of total project costs. Yet these services play a profound role in determining overall project

costs. A well-designed project by a highly qualified firm will stay on time and on budget, solve construction and operational challenges, experience fewer change orders during construction, enhance performance of the completed project, and reduce long-term maintenance and repair costs. A 2009 study by the University of Colorado and Georgia Tech found that using a QBS process to procure engineering services results in lower construction costs and lower schedule growth, which means real cost savings to the taxpayer.

3. **QBS benefits small firms.** QBS helps small firms compete by providing a forum to demonstrate their unique capabilities that often include a greater degree of niche market expertise, knowledge of local regulations and business practices, and greater involvement of senior level management in the execution of a project.
4. **QBS promotes technical innovation.** Using QBS, owners have the opportunity to fully define the project scope during the selection process. This process fosters innovative, cost-saving and timesaving approaches to problems, ensuring that the final project meets or exceeds the functional and performance goals set by the owner.

ACEC Position

ACEC urges Congress to support legislation that would protect and promote the use of QBS. ACEC also supports requiring state and local governments receiving federal funding, including grant and loan programs, for any portion of a project to use QBS.

General Information

- [Federal Programs](#)
- [TITLE 40 U.S.C. 1101-1104](#)
- [ACEC Policy Statement on Selection of Design Professionals on the Basis of Qualifications](#)
- [ACEC QBS Presentation](#)
- [ACEC/Kansas - Making the Call Presentation](#)
- [Brooks Act \(P.L. 92-582\) Text](#)
- [Federal Acquisition Regulation \(FAR\) Part 36](#)
- [QBS Brochure: Why Value Outweighs Cost in the Selection of Engineering Services](#)
- [QBS One-Pager](#)
- [How to Use Qualifications-Based Selection](#)
- [The Reality of Bidding](#)
- [QBS Talking Points](#)
- [Why Not Pick Quality](#)
- [The State of QBS: Battles at the Local and National Level](#)

Survey of State QBS Laws and Registrations Boards

State	QBS Law	State Statute	QBS Applies to State Contracts	QBS Applies to Local Units	Registration Board Prohibits Response To Price Proposal	Registration Board Enforced?	Comments
AL	Y	41-16-21&72	Y	N	Y	N	
AK	Y	36-30-270	Y	N			Certain Exemptions
AZ	Y	34-603	Y	Y	N		
AR	Y	19-11-802	Y	Y	N		
CA	Y	Gov Code Chap. 10 – 4525 -29	Y	Y	N		
CO	Y	24-30, Sec. 1401-8	Y	N	N		
CT	Y	4B-58 & 13B-20	Y	N	N		Dept. of Public Works is now Dept. of Construction Services
DE	Y	29-6962 & 6982	Y	Y			
FL	Y	287-055	Y	Y	N	N	See comment below ¹
GA	Y	50-22	Y	N	N		
HI	Y	103D-304	Y	Y	N		
ID	Y	67-2320	Y	Y	Y	Y	
IL	Y	30-ILCS-535	Y	Y	N		Local law cited as 50-ILCS-510
IN	Y	5-16-11.1	Y	Y	N		Price may be considered on state contracts not involving construction and may be considered on local contracts if state or federal matching money is not involved.
IA	N		N/A	N/A	N		Agencies generally follow QBS. Admin Code 11-105-9
KS	Y	75-5801	Y	N	N		
KY	Y	45A	Y	N	N		Local units may use QBS

State	QBS Law	State Statute	QBS Applies to State Contracts	QBS Applies to Local Units	Registration Board Prohibits Response To Price Proposal	Registration Board Enforced?	Comments
LA	Y	38:2181-2316	Y	Y	N		
ME	Y	5-1742	Y	N	N		
MD	Y	13-308	Y	N	N	N	Under \$100,000, price is 40% of selection criteria
MA	Y	M.G.L. Part 1 Title 2 c. 7C §§ 44-57 (Vert.) and § 58 (Hor.)	Y	N	N		QBS applies to vertical design. QBS applies to horizontal design for public works projects by the Massachusetts transportation agencies MassDOT, Massport, and MBTA (MA Bay Transportation Auth.). ²
MI	Y	18.1237b	Y	N	N		Only applies to Dept. of Management & Budget
MN	Y	§16C.08 for the general rules; §16C.087 for selection of professional services contractors; §16C.33 Subd. 5 for D-B projects	Y	N	N	N	State agency may choose to use QBS and, if it does, then must comply with 16C.087, sub. 2,3,4. Does not directly apply to local units of govt; no threshold; designer-selection board and other exceptions. For State Design Selection Board, see https://mn.gov/admin/government/construction-projects/sdsb/ . For rules governing Selection Board, see MN R. 3200 et seq.
MS	Y	17.056 Registration law	N	Y			Administrative rule 31-7-13-2. Allows for price after short list accomplished.
MO	Y	8.285 – 8.291	Y	Y	N	N	Prior Attorney General's favorable opinion letter is used to support QBS.
MT	Y	18-8-201	Y	Y	N	N	Contracts under 50K – agency may direct select a qualified firm.
NE	Y	81-1701-1721	Y	Y	Y		Projects over 40K
NV	Y	625.530	Y	Y	Y	Y	Projects over 35K
NH	Y	Title 1 – Chap. 21 Sec 22	Y	N			
NJ	Y	PL 1997 Chap. 399	Y	N	N		Local governments encouraged to use QBS. Allows price proposal from top 3 firms. Working on new law.

State	QBS Law	State Statute	QBS Applies to State Contracts	QBS Applies to Local Units	Registration Board Prohibits Response To Price Proposal	Registration Board Enforced?	Comments
NM	Y	13-1-117.1 THRU 13-154.1	Y	Y	N		For engineering and architecture contracts over 60K, surveying 20K. Universities exempt.
NY	Y	136A	Y	N			
NC	Y	143-64.31	Y	Y	Y	N	See comment below ³
ND	Y	54 – 44.7	Y	N	N	N	
OH	Y	153.65-99	Y	Y	N	N	Except home rule municipalities, see comment below. ⁴
OK	Y	61, 60-65	Y	Y	Y	N	Includes all political subdivisions
OR	Y	Statutes ORS 279C.100 to 279C.125. Model rules at OAR 137-048-0100 to 137-048-0320	Y	Y	N	N	The state board enforces the use of licensed professionals only for geologists under ORS 672.695. See comment below. ⁵
PA	Y	62, CSA 905	Y	N	N		
RI	Y	45-55-8.1	N	Y	N		Introducing “state” QBS bill in 2018
SC	Y	11-35-3220	Y	N	N		Attempting to pass legislation this year that will extend QBS to local subdivisions and will be enforced by the Registration Board.
SD	N		N/A	N/A			
TN	Y	12-4-107(a)	Y	Y	Y	Y	TN Board of A/E Examiners Rule prohibits compensation submission for selection. ⁶
TX	Y	2254.004	Y	Y	Y	Y	Board enforcement just went into effect. 2013
UT	Y	63G-6a-Part15	Y	Y districts	N	N	Does not apply to cities, towns, and counties.
VT	N		N/A	N/A	N	N	QBS required for only FHWA funded projects. State typically requests qualifications plus price otherwise.
VA	Y	2.2-4300	Y	Y	N	N	Legislation mandates use of QBS, even for term contracts.
WA	Y	39.80.040, 050	Y	Y	N	N	
WV	Y	5G-1-1	Y	Y			

State	QBS Law	State Statute	QBS Applies to State Contracts	QBS Applies to Local Units	Registration Board Prohibits Response To Price Proposal	Registration Board Enforced?	Comments
WI	N		N/A	N/A			Not required but most state agencies use QBS
WY	Y	9-2-1031	Y	N	N		Exempted: WYDOT, U of Wyo., community colleges, school districts.

¹FLORIDA - QBS applies to a planning or study activity where compensation exceeds \$35,000 and in projects where the basic cost of construction, as estimated by the agency, will exceed \$325,000. A "continuing contract" is defined by the statute as a contract for professional services entered into in accordance with all the procedures of this act whereby the firm provides professional services to the agency for which the estimated construction cost of each individual project under the contract does not exceed \$2 million, the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause.

²MASSACHUSETTS - No mandate for municipal civil works projects, except that MassDOT Highway requires municipalities to use pre-qualified engineering firms and strongly suggests that they use QBS for designer selection. The following types of contracts entailing design services for building (vertical) projects are exempt from the designer selection law in Massachusetts:

1. **Sewer, water or highway system buildings and structures.** Contracts for the design of a building that is appurtenant to a sewer, water or highway system, and is required as an integral part of that system, are exempt from the designer selection law. M.G.L. c. 7C, § 1.
2. **Building demolition projects.** Contracts for the design of building demolition projects are exempt from the designer selection law. M.G.L. c. 7C, § 46(e).
3. **Design contracts for building projects estimated to cost less than \$100,000.** To select designers for building projects estimated to cost less than \$100,000, the State Inspector General's office recommends soliciting qualifications and price information from at least three design firms. ACEC disagrees with the suggestion of providing price information.

³NORTH CAROLINA's Mini-Brooks Act allows state and local entities various "Opt-Out" provisions in the current law. In 2013, Design-Build/P3 enabling legislation (HB857) eliminated this loophole for all public entities except NCDOT. The legislation allowed a public entity to request a price proposal only for projects with an estimated fee less than \$50,000. Our State Licensing Board does not have enforcement authority over non-licensees.

⁴OHIO - In 2011 we had our law amended to eliminate the exemption for projects with an estimated fee under \$25,000 and we substituted a provision that allows design professionals to be "direct selected" on projects with an estimated fee of less than \$50,000 provided that the fee and scope of services still must be negotiated with the selected firm. ohio.gov/orc/153.71.

⁵OREGON

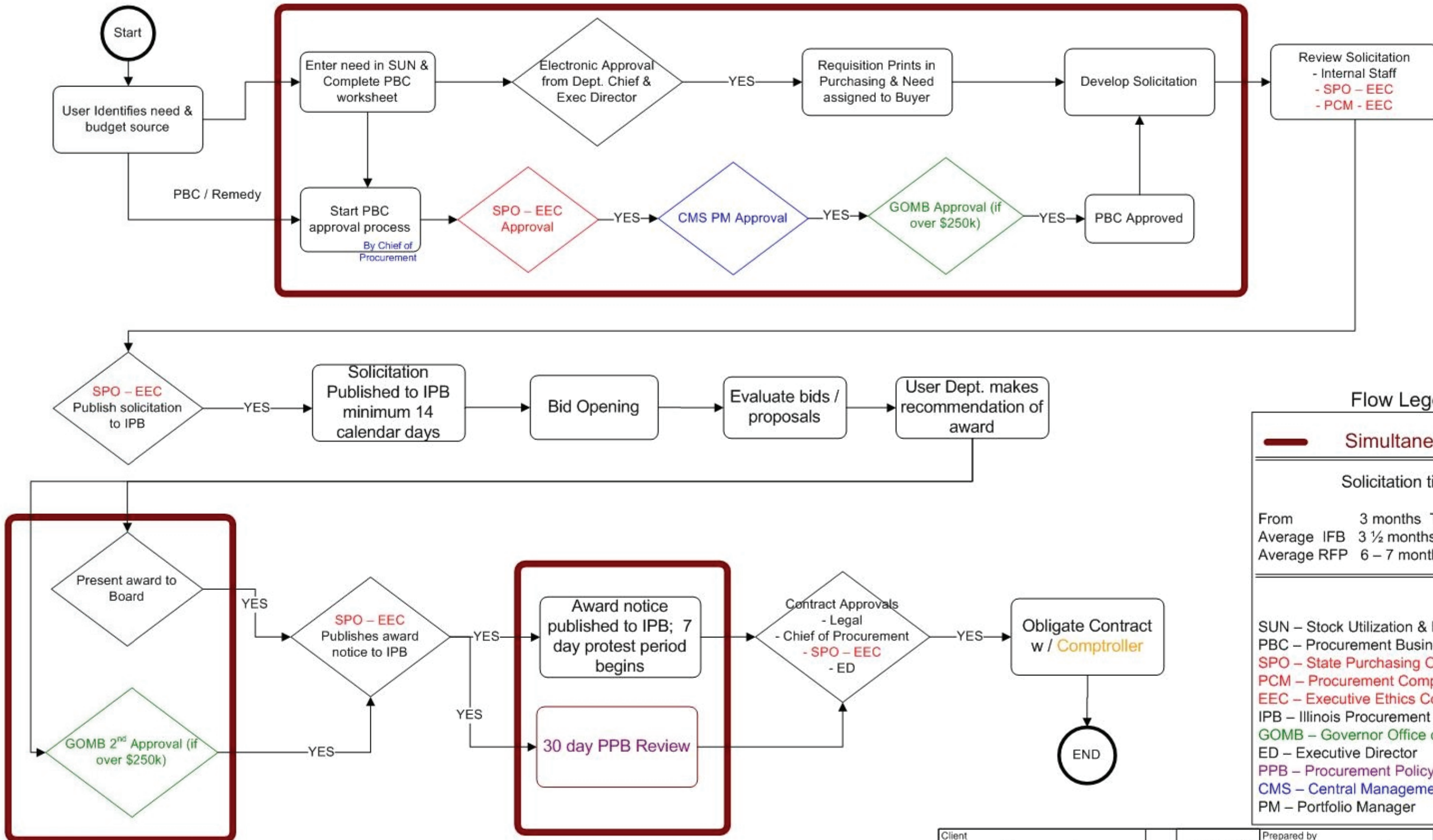
- * Oregon has a broad definition of consultants that are covered by QBS including Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services.
- * All state and local agencies must follow QBS. Exceptions apply when the agency finds there is an emergency or the estimated design fee is below \$100,000.
- * Projects with design fees expected to be at least \$100K but less than \$250K are required to use QBS but are allowed to go through a process described as an "informal selection process".

- * Agencies must establish QBS procedures that meet the requirements of the law or adopt the model rule procedures outlined in the Oregon Administrative Rules (OAR 137-048-0100 to 137-048-0320)
- * The Oregon Department of Transportation and Department of Administrative Services must follow the model rules which provide details about the selection process. Projects with an estimated design fee of more than \$100K but less than \$250K use an "informal selection process". The process allows the agency to screen and select a consulting firm from a prequalified list. A request for proposals that are solicited from a minimum of five firms will be rank ordered and negotiations will begin with the top ranked firm as in a regular QBS process (See OAR 137-048-0210). For projects with expected design fees above \$250,000, a full public contracting process must be used with responding firms ranked. Negotiations and discussions on the final contract, scope and price occur with the top ranked firm first and terminate if an agreement is not reached within a reasonable time before moving to the second ranked consultant (See OAR 137-048-0220).

⁶Tennessee Board of Architectural & Engineering Examiners Rule 0120-02-.02 – Proper Conduct of Practice: "(6) A registrant may not submit any information as part of a proposal for a public project to the state or any of its political subdivisions that would enable the governmental entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services required, thereby precluding participation in any system requiring a comparison of compensation. This rule shall apply only to proposals submitted to governmental entities that are prohibited by TCA§ 12-4-107(a) from making a selection or awarding a contract on the basis of competitive bids. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined."

This table consists of information provided to ACEC by the Member Organizations regarding QBS laws in the states. This information is provided for educational purposes only and is not intended to constitute legal advice. ACEC provides no warranties as to the accuracy of this information, especially as it is by its nature subject to change at any time. ACEC and its officers, directors, agents, volunteers, and employees are not responsible for, and expressly disclaim, liability for any and all losses, damages, claims, and causes of action, including but not limited to direct, indirect, incidental, consequential or punitive damages and attorneys' fees and costs, arising out of or resulting from any use, reference to, or reliance on information contained in this table. Any reproduction or redistribution of this table in whole or in part without the express written consent of ACEC is strictly prohibited. Copyright © 2018 American Council of Engineering Companies (ACEC). All Rights Reserved.

Procurement Department – General Process Solicitation Flow



Flow Legend

Simultaneous processes

Solicitation timeframe

From 3 months To little over 1 year
Average IFB 3 ½ months
Average RFP 6 – 7 months

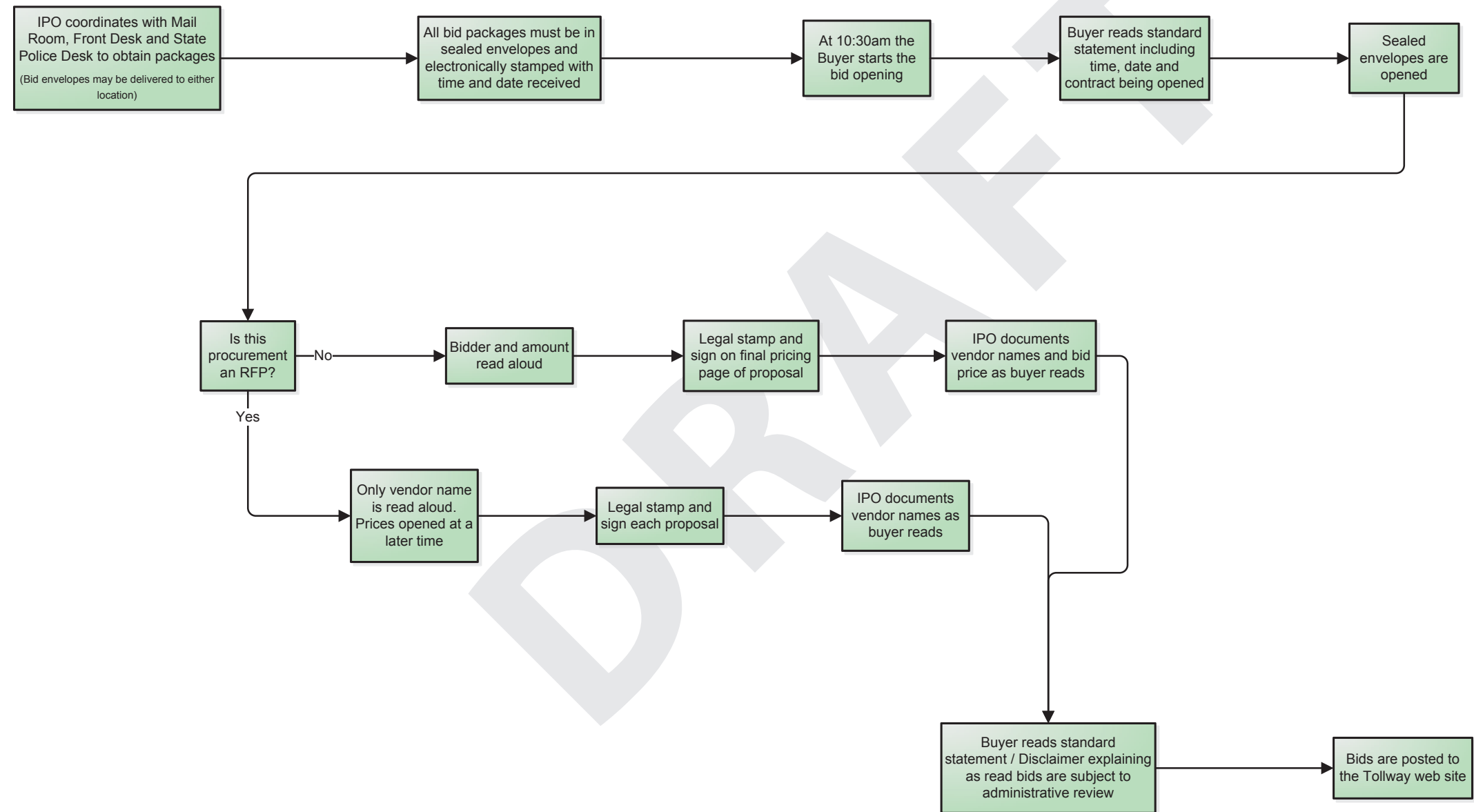
SUN – Stock Utilization & Need System
PBC – Procurement Business Case
SPO – State Purchasing Officer
PCM – Procurement Compliance Monitor
EEC – Executive Ethics Commission
IPB – Illinois Procurement Bulletin
GOMB – Governor Office of MGMT & Budget
ED – Executive Director
PPB – Procurement Policy Board
CMS – Central Management Service
PM – Portfolio Manager

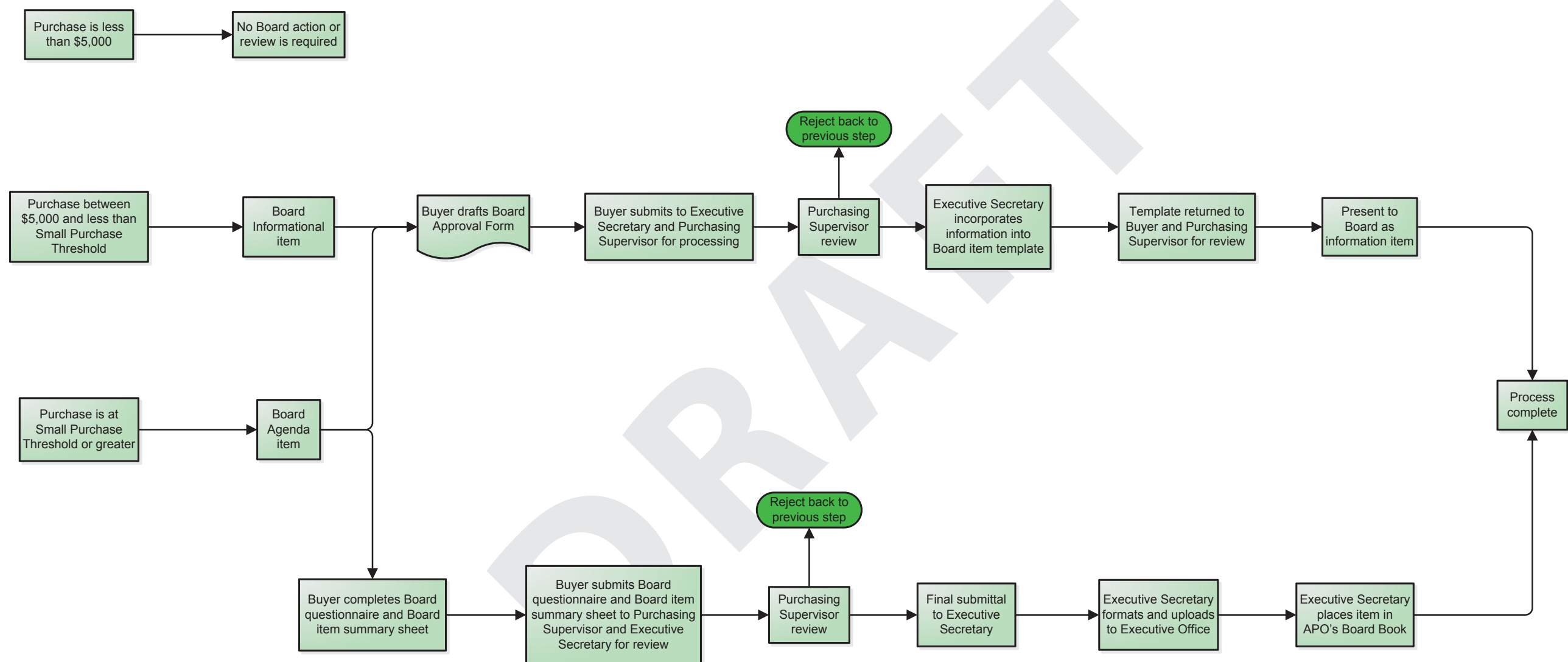
Client	Procurement	Page 1 of 1	Prepared by	IT	Date	Apr 6, 2011
Process	Page-1		Approved by		Date	

Bid Opening (DRAFT)

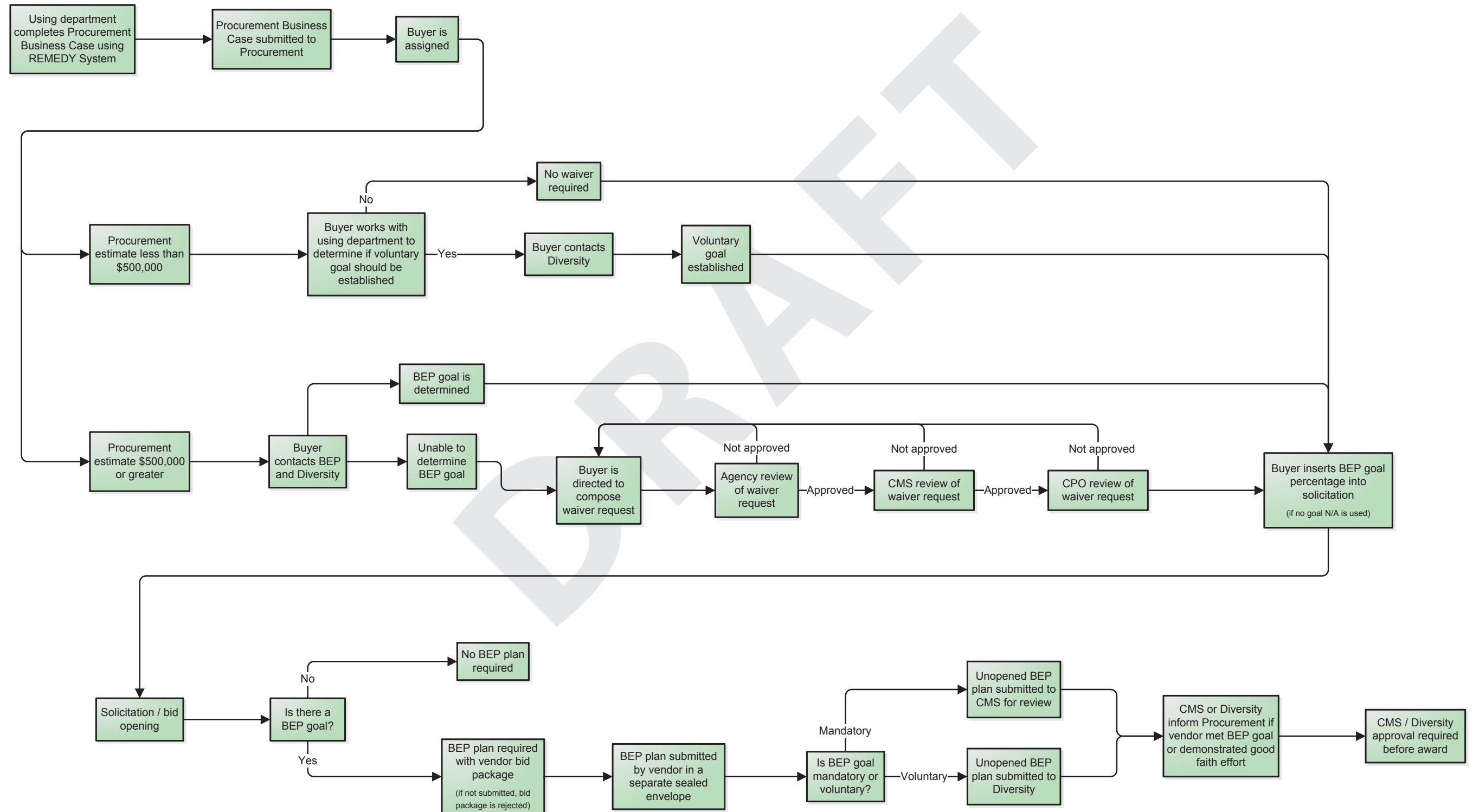
All bid openings are held at 10:30am at the Central Administration Building
Present: Legal, using department representative, Buyer, IPO. (SPO and PCM invited)

2/06/2012





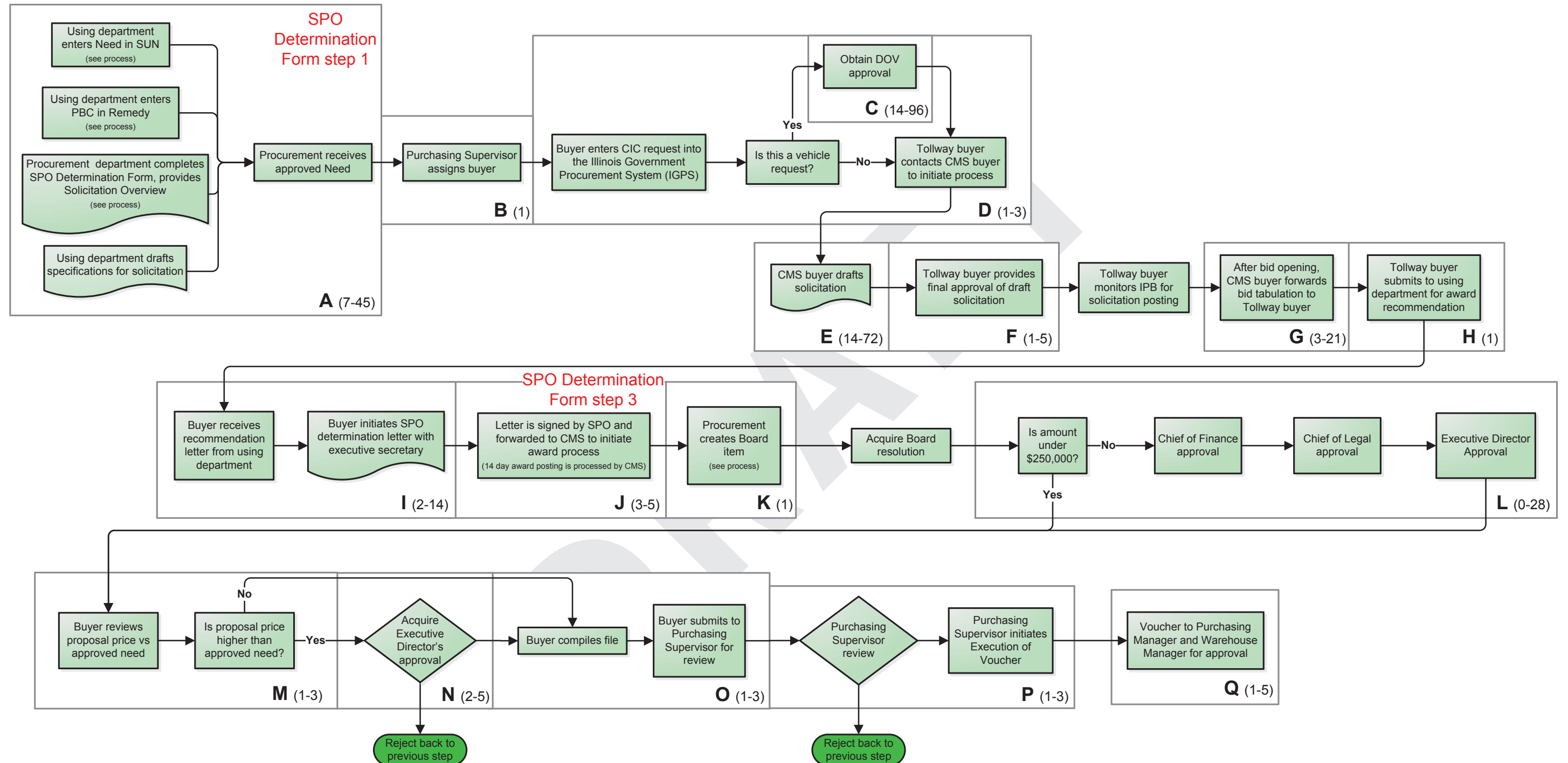
Notes: Any RFP \$500,000 or greater must have a BEP goal
Any solicitation under \$500,000 may have a voluntary goal
There is a waiver process if BEP goal can not be achieved when required

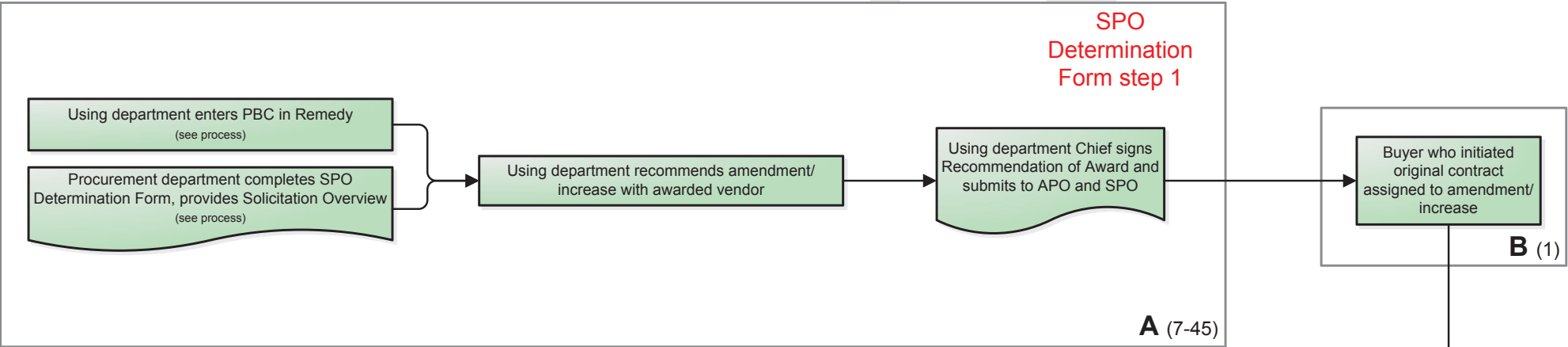


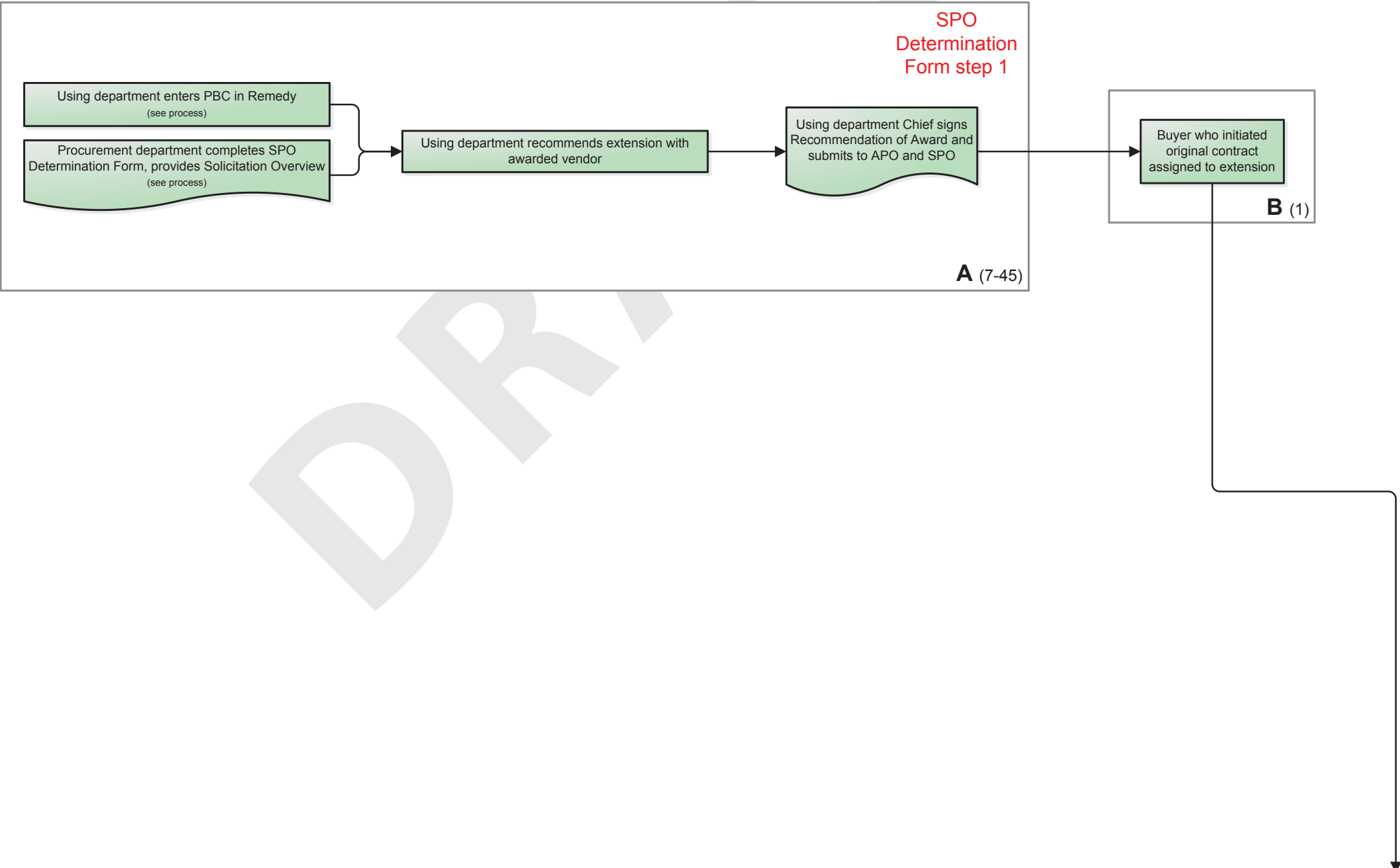
CMS for Tollway Contract (DRAFT)

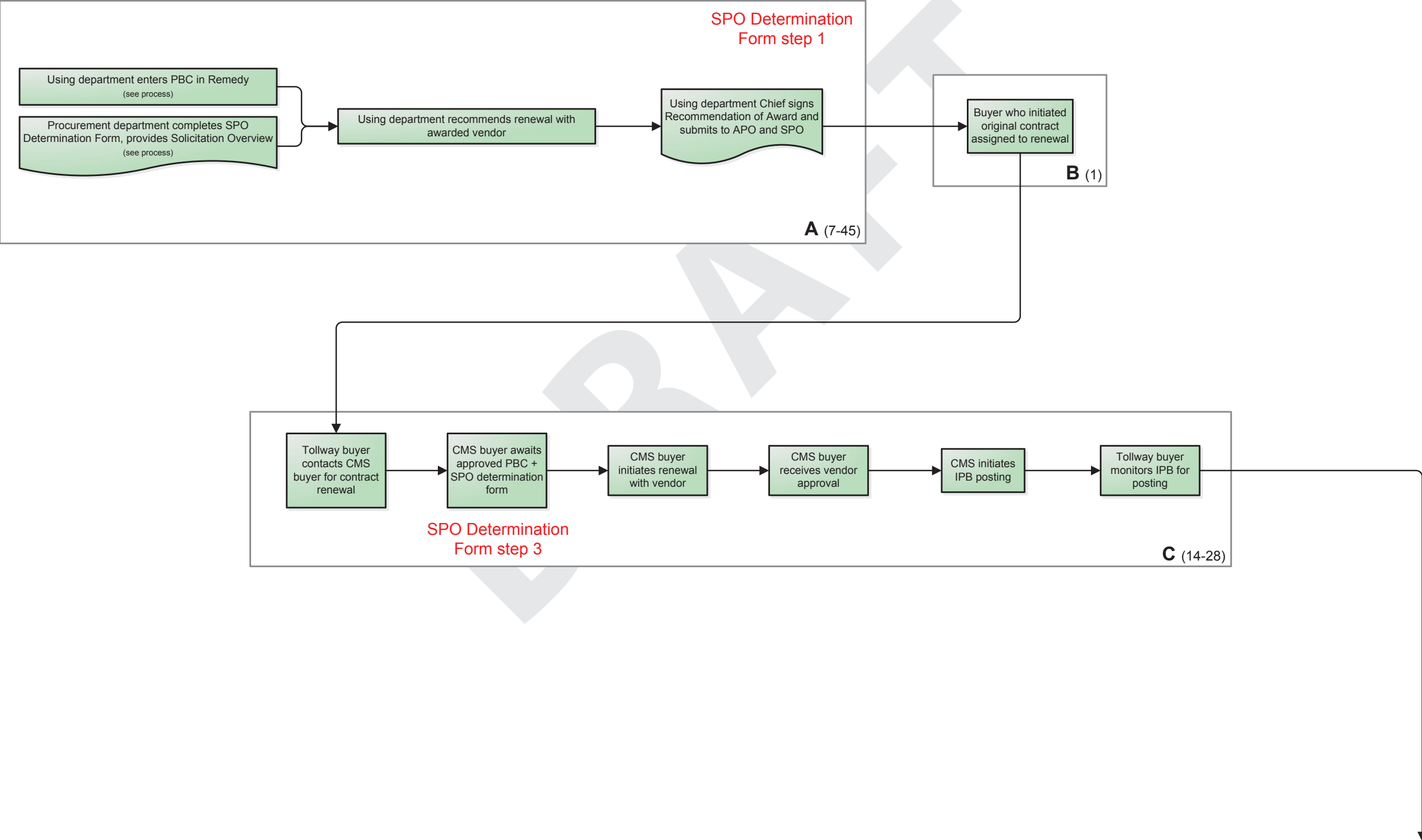
Equipment / Commodities \$25,000 or greater must be bid by CMS unless a letter of delegation is granted

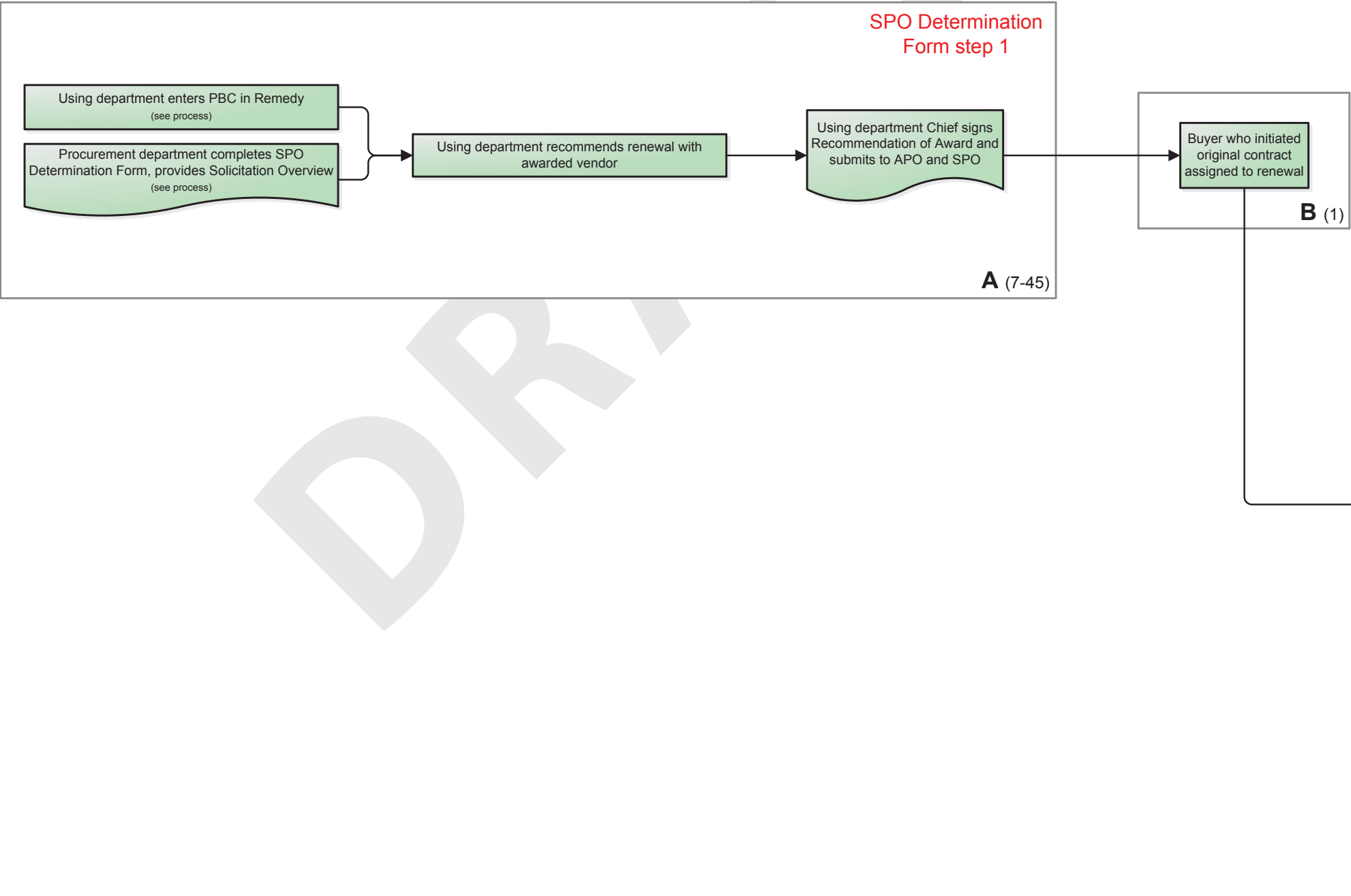
2/22/2012











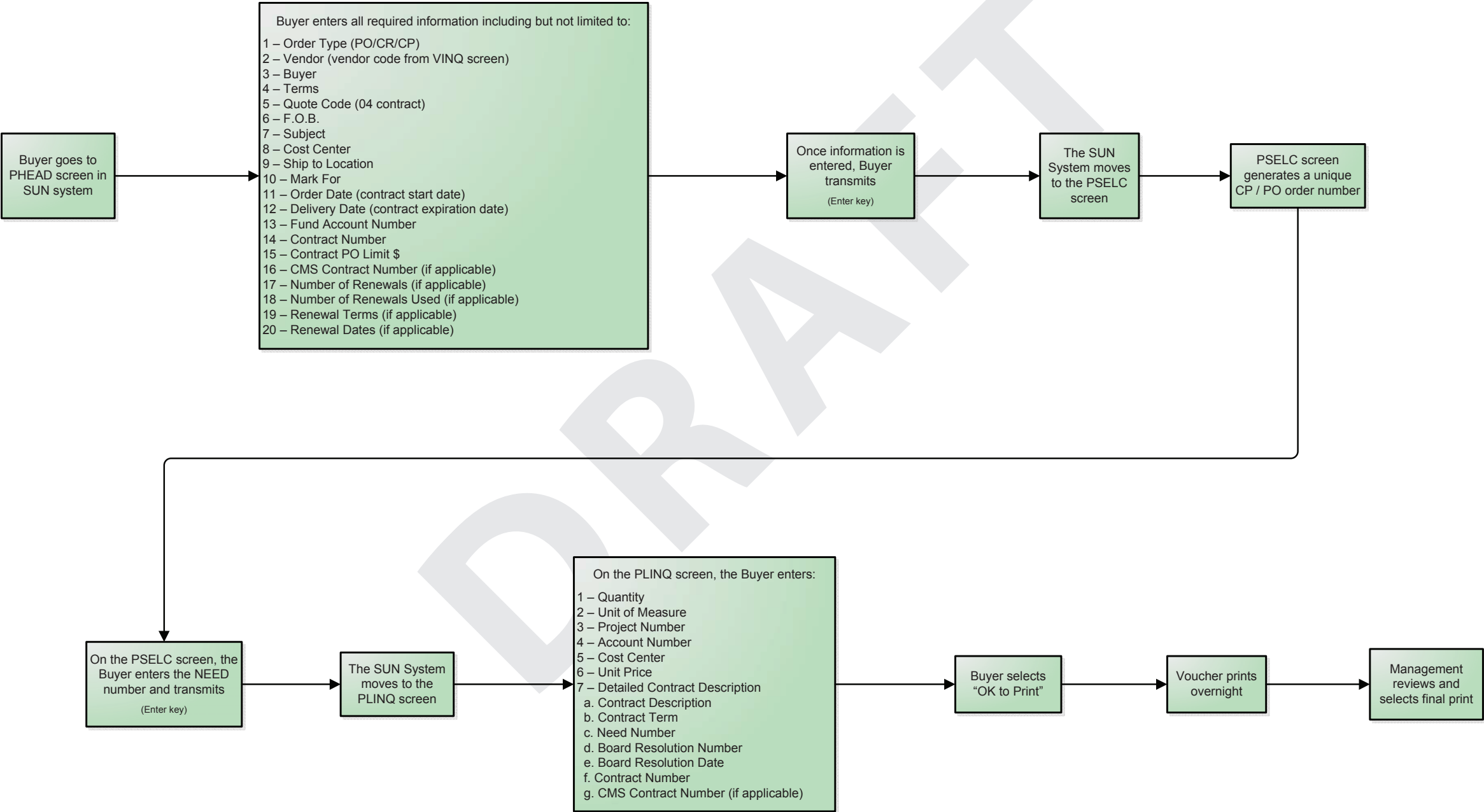
CP / PO Voucher Creation Process (DRAFT)

CP = Contract Purchase Order: Term contract with multiple purchases and payments throughout the term of the contract
PO = Purchase Order: One time purchase and payment

2/09/2012



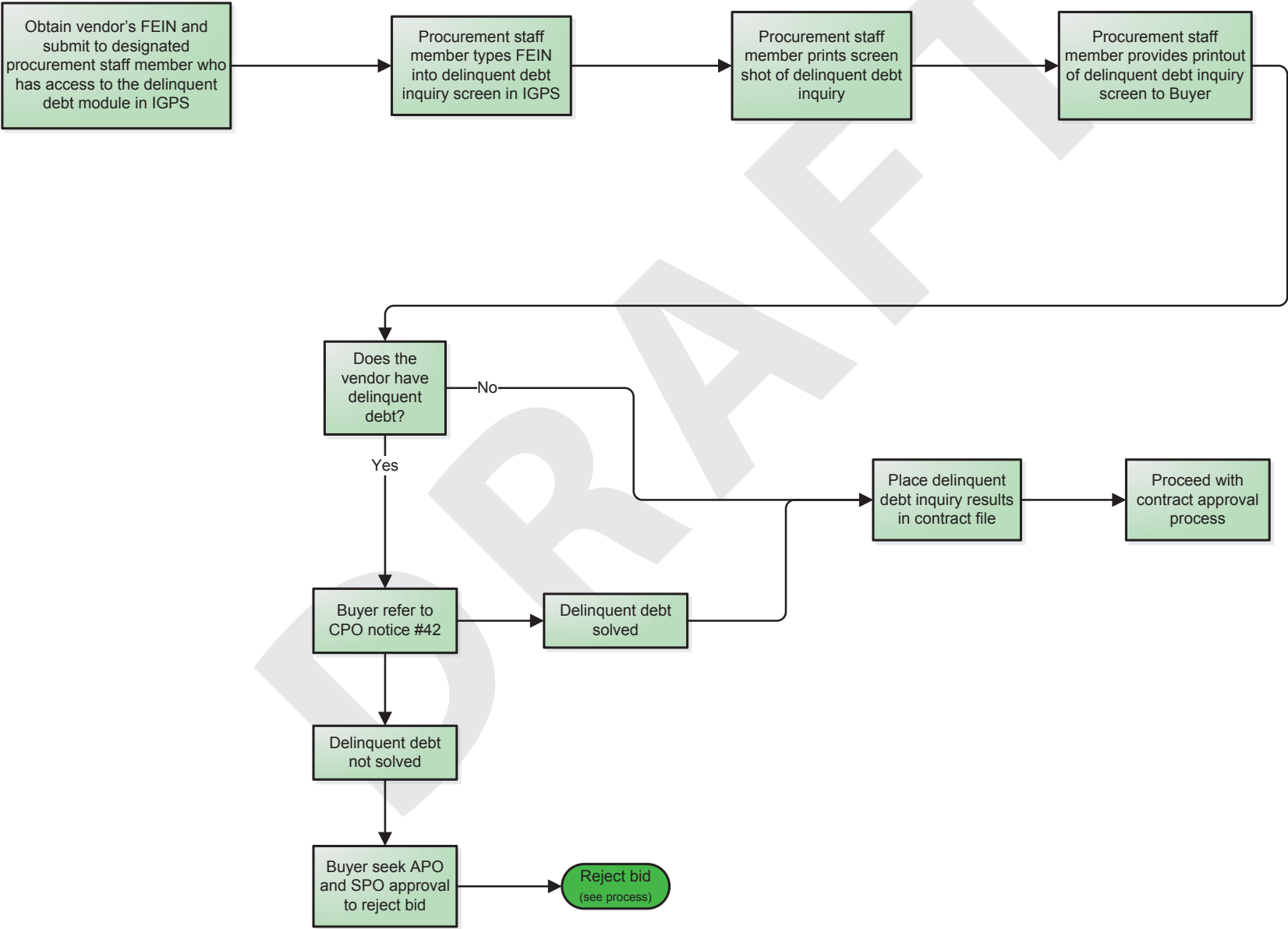
NOTE: CP / PO Voucher Creation Process is a SUN System process that establishes the contract for end users and provides a payment method and tracking
NOTE: SUN System CONTR screen must be updated prior to initiating CP / PO process

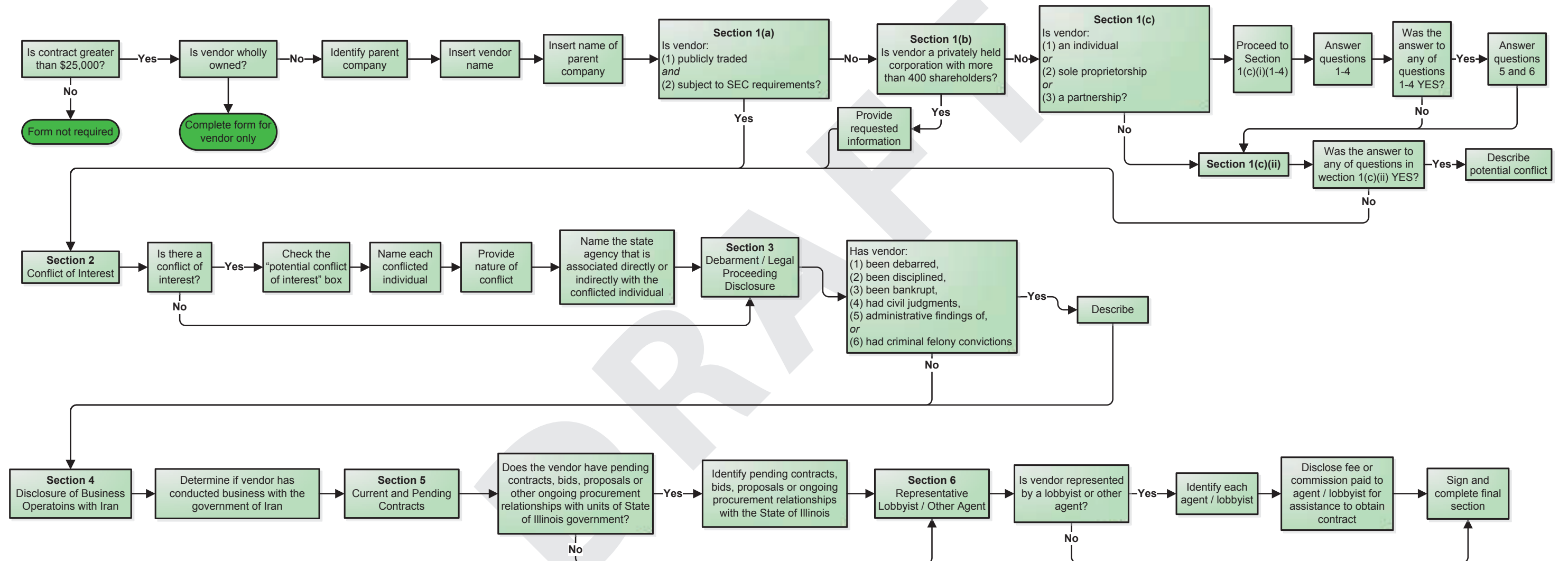


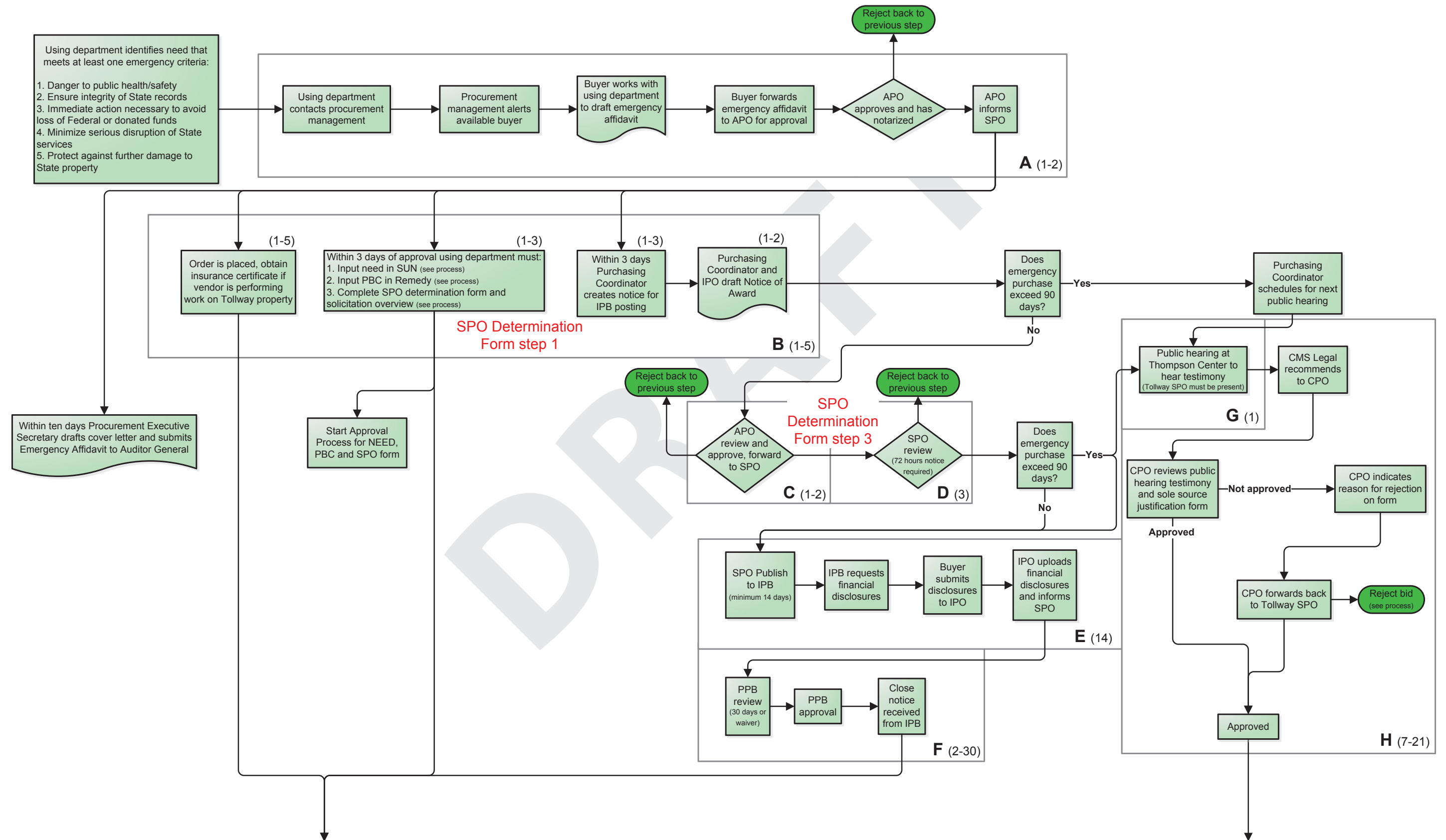
NOTE: Final print is electronic not physical (similar to an approval)
NOTE: Funds can not be released until final print is processed by management and after contract has been executed

Delinquent Debt Review (DRAFT)

Pursuant to (30 ILCS 500/50-11) all contracts with a value of \$10,000 or greater must undergo a delinquent debt review
2/04/2012



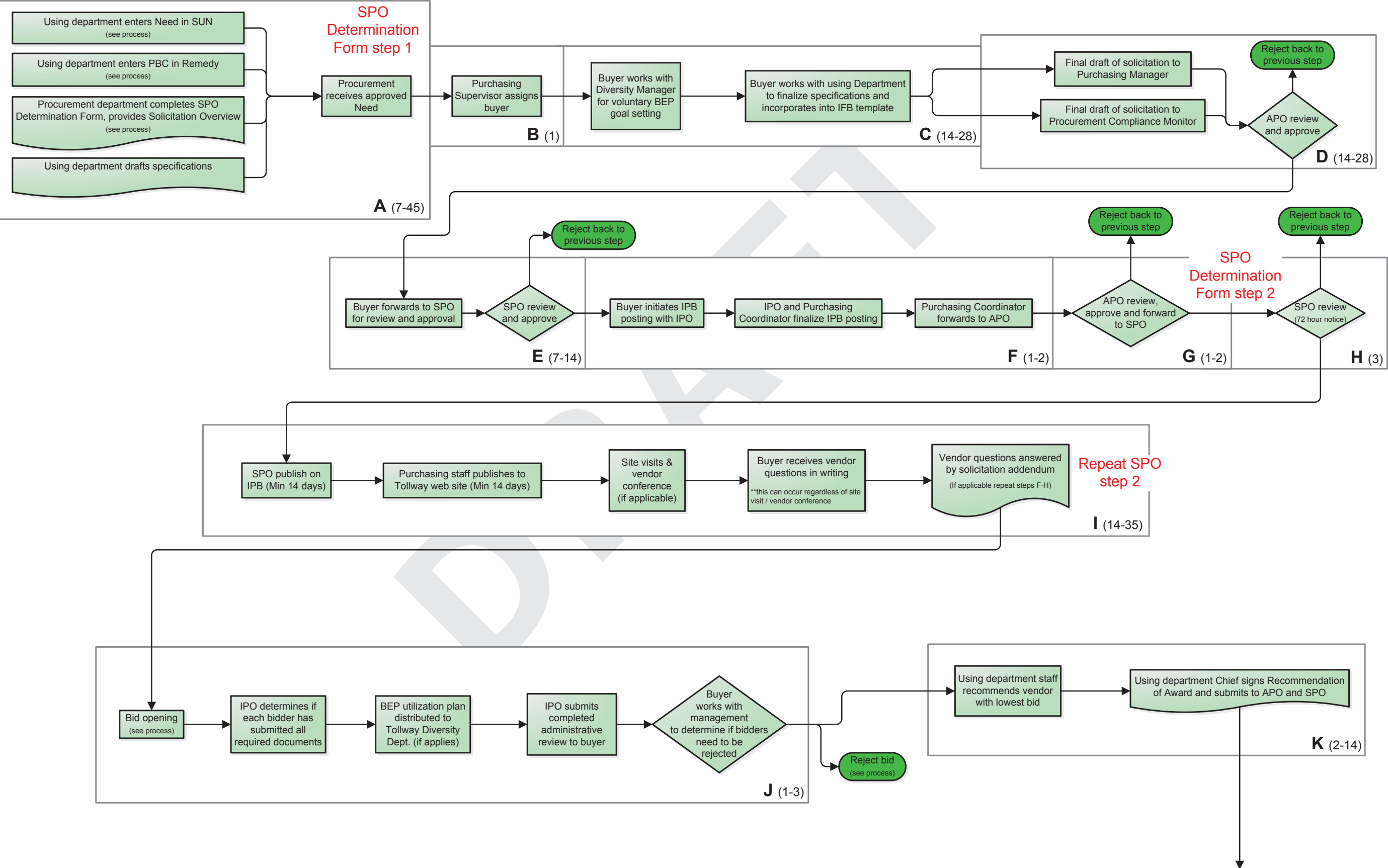


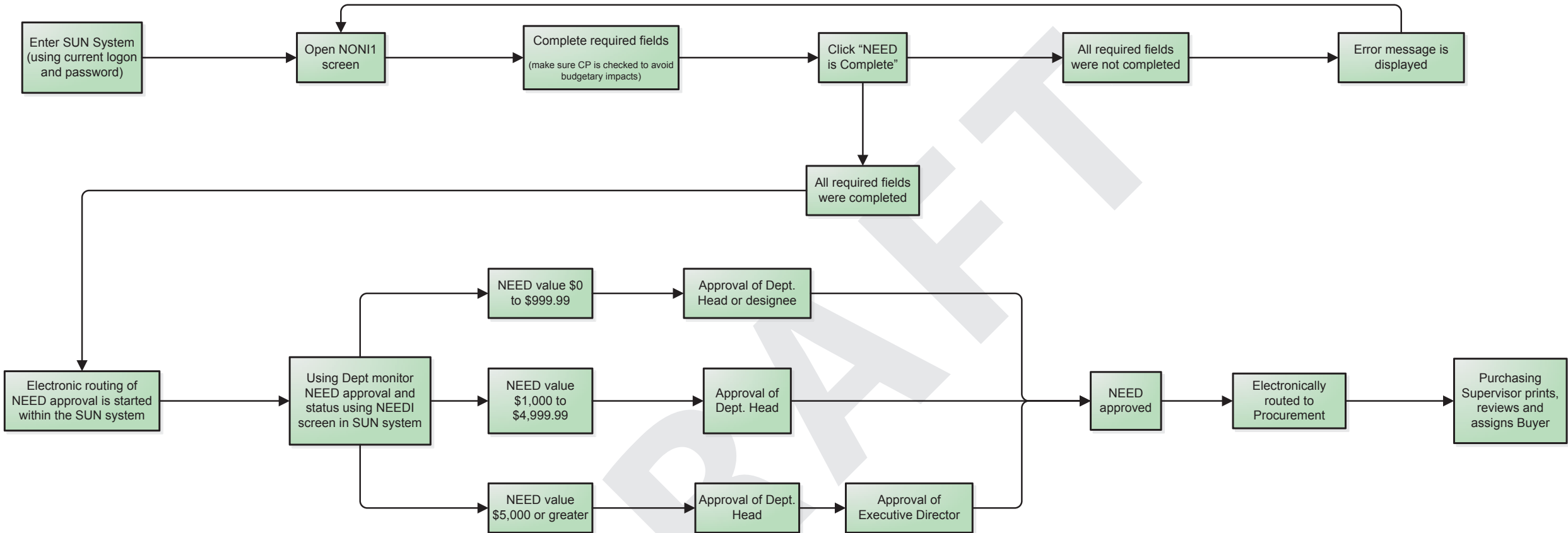


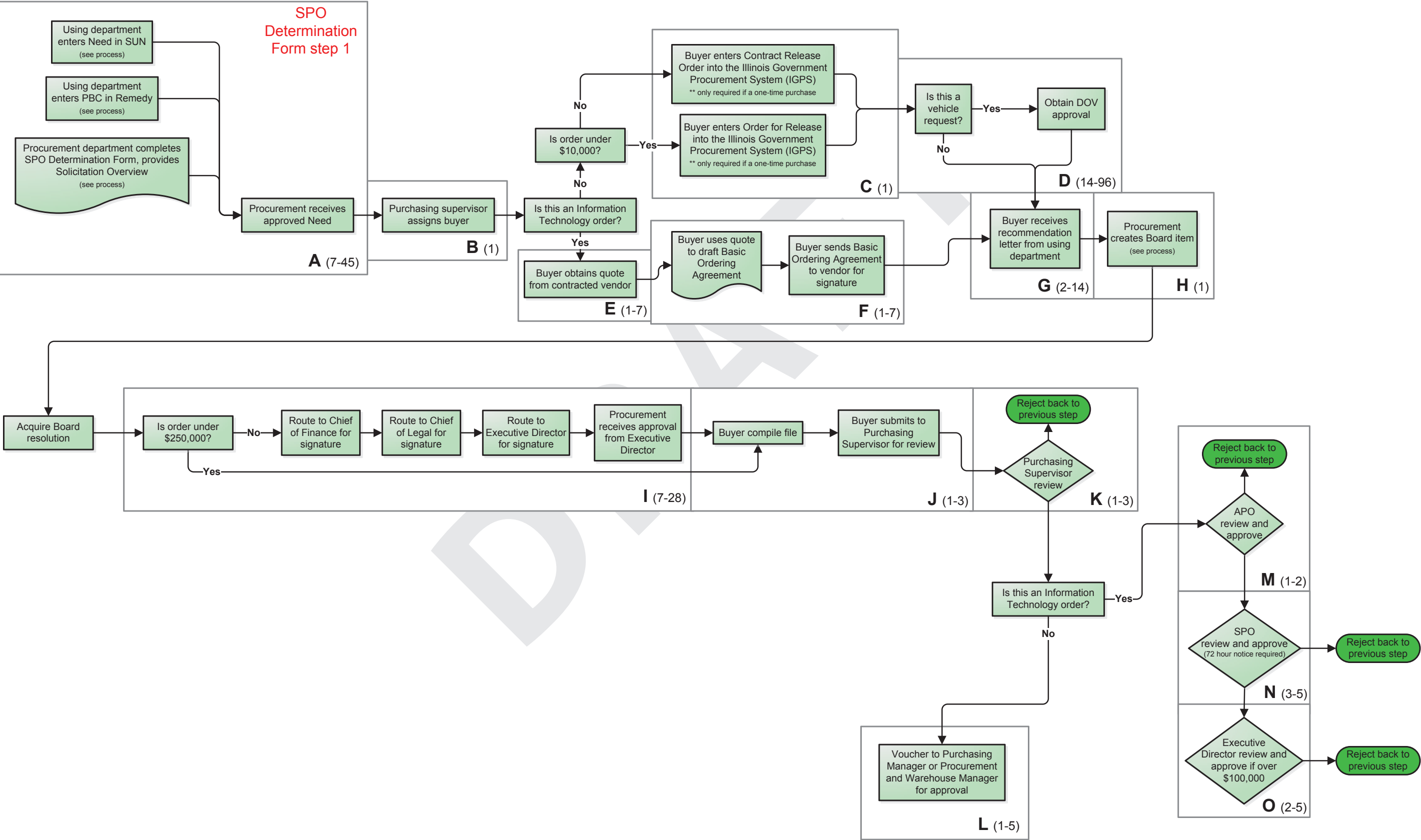
Invitation for Bid (DRAFT)

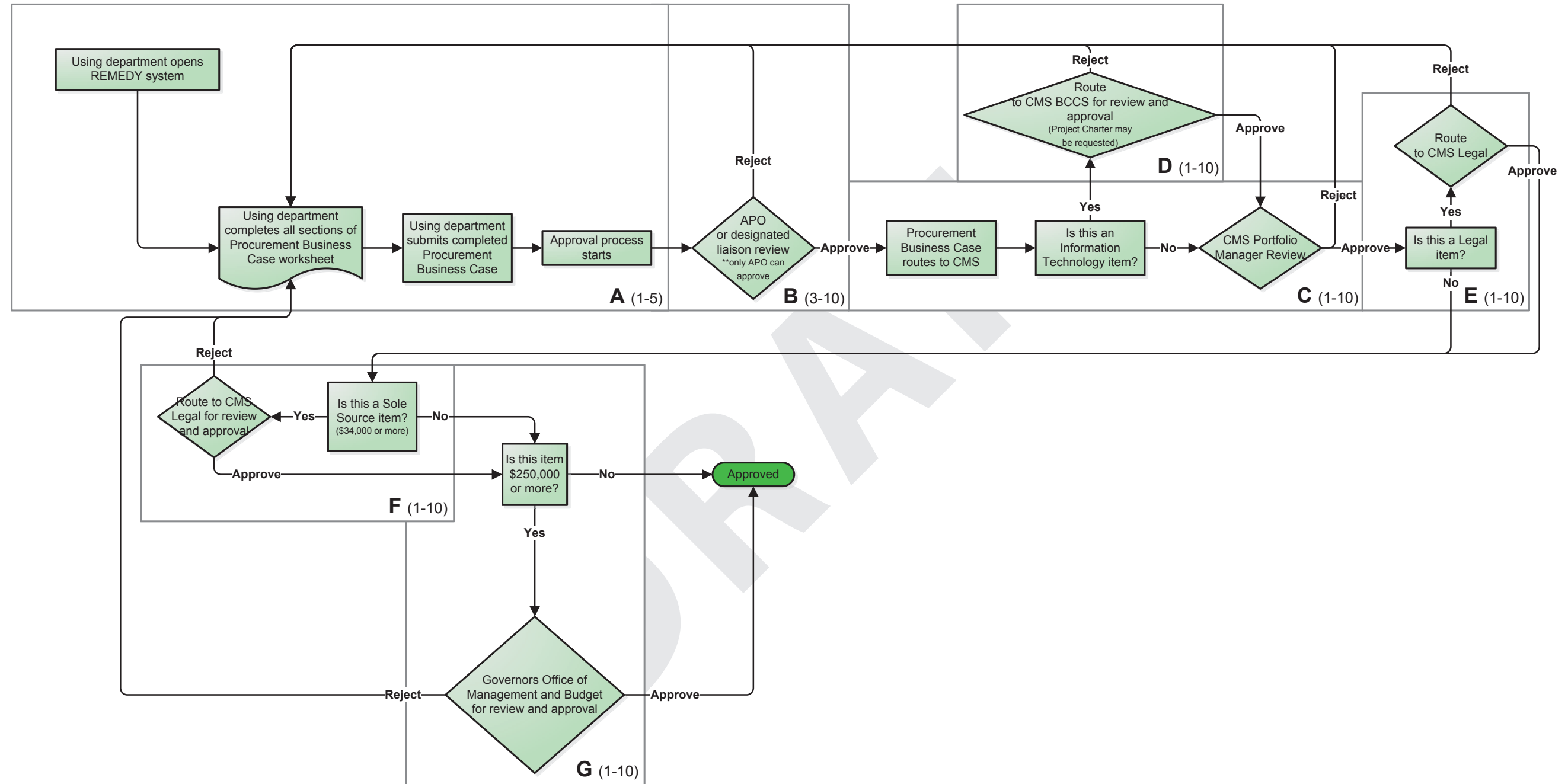
Equipment / Commodities \$25,000 or greater must be bid by CMS unless a letter of delegation is granted

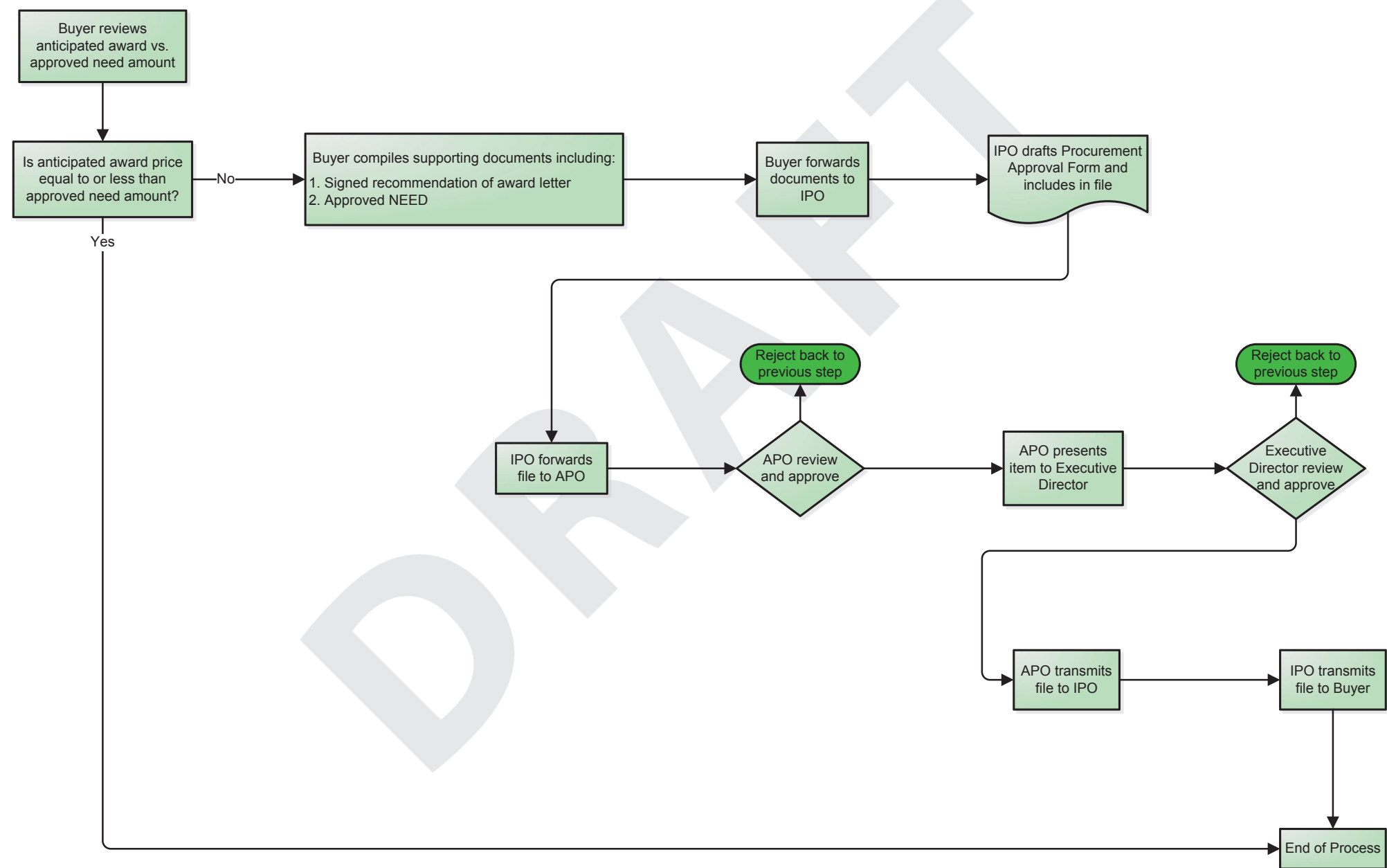
2/22/2012









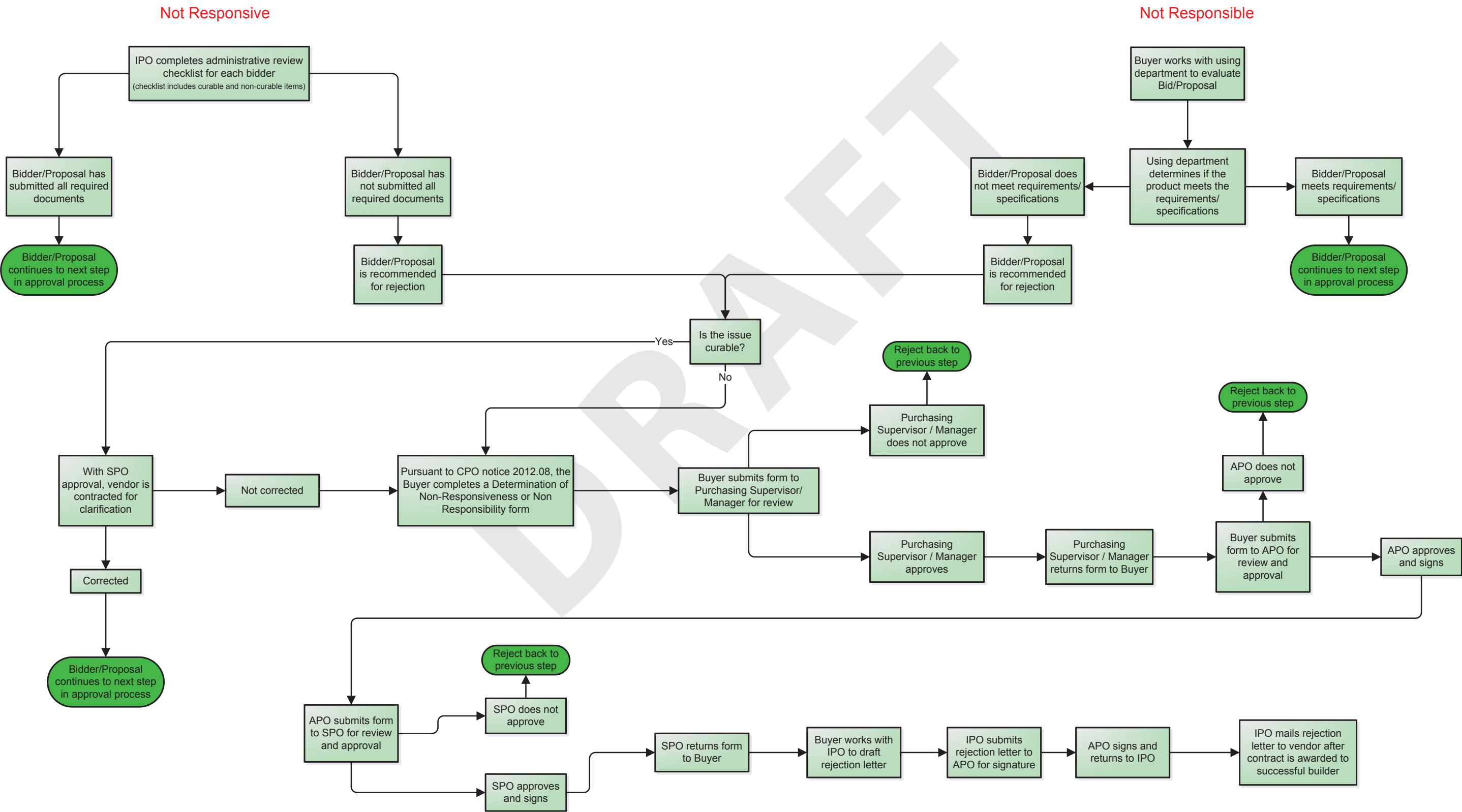


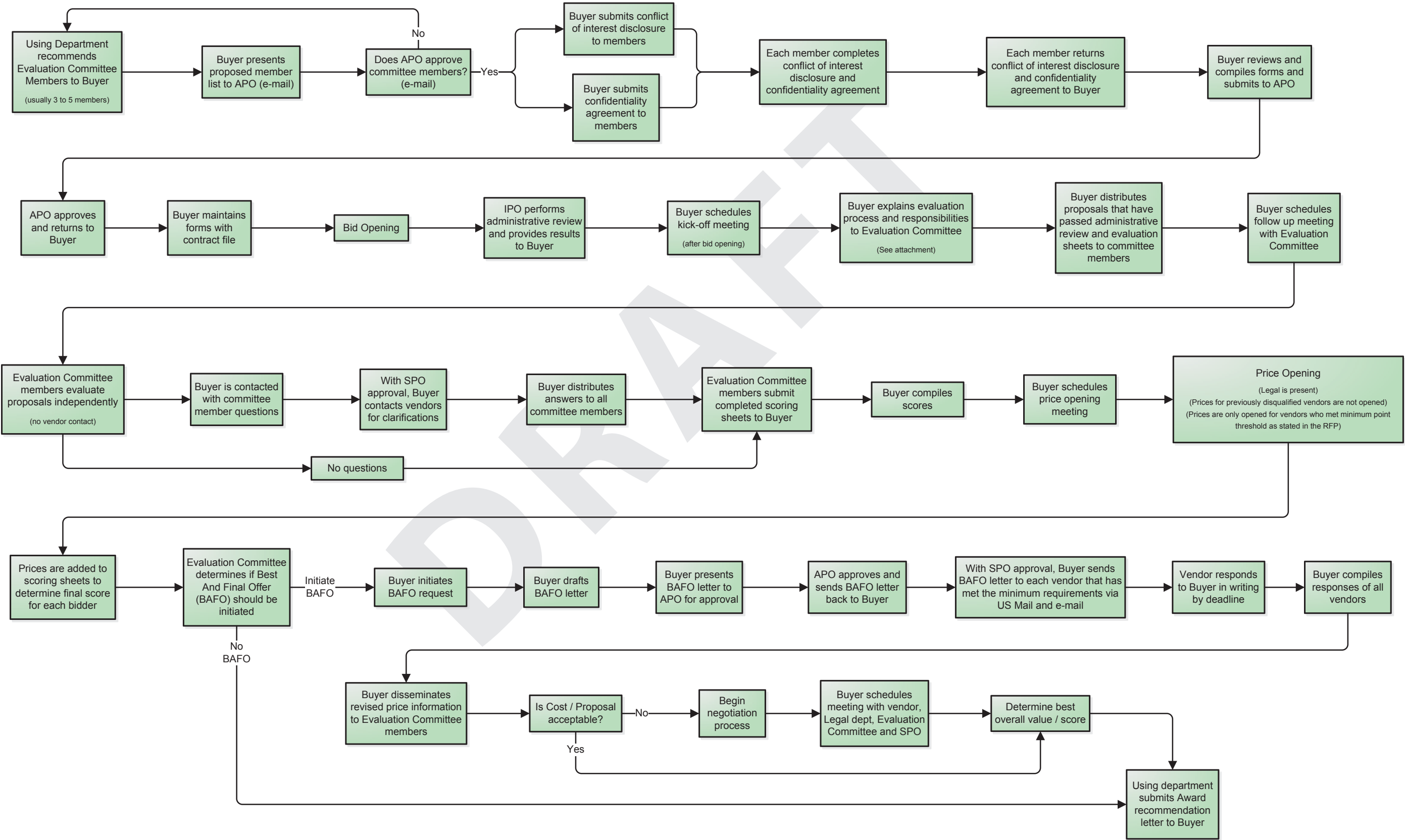
Rejection Process (DRAFT)

3/12/2012



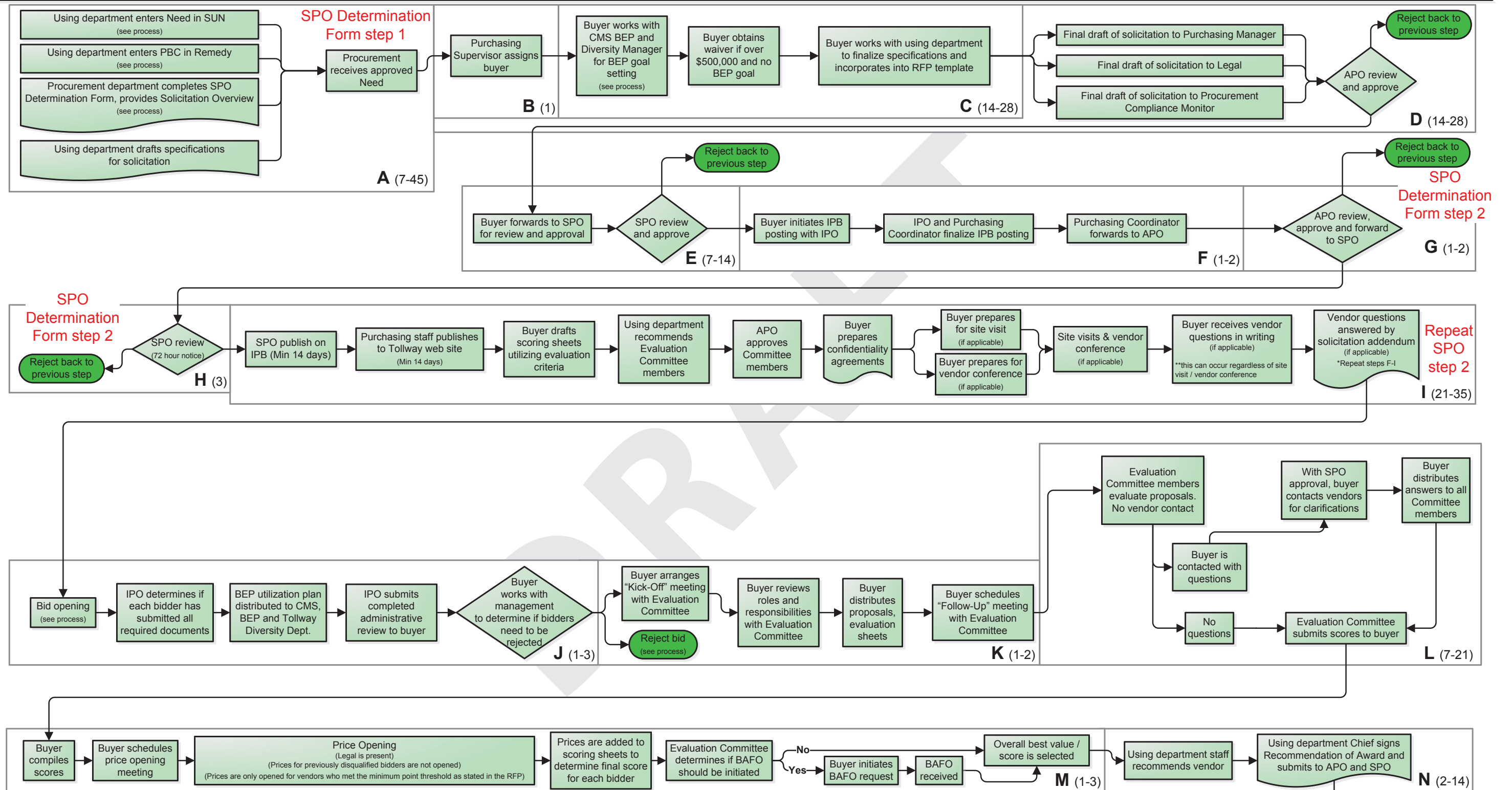
Note: Responsive is defined as a person or company that submits a bid that conforms in all material aspects to the invitation for bid.
Note: Responsible is defined as a person or company who has the capability in all aspects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance.





RFP Process (DRAFT)

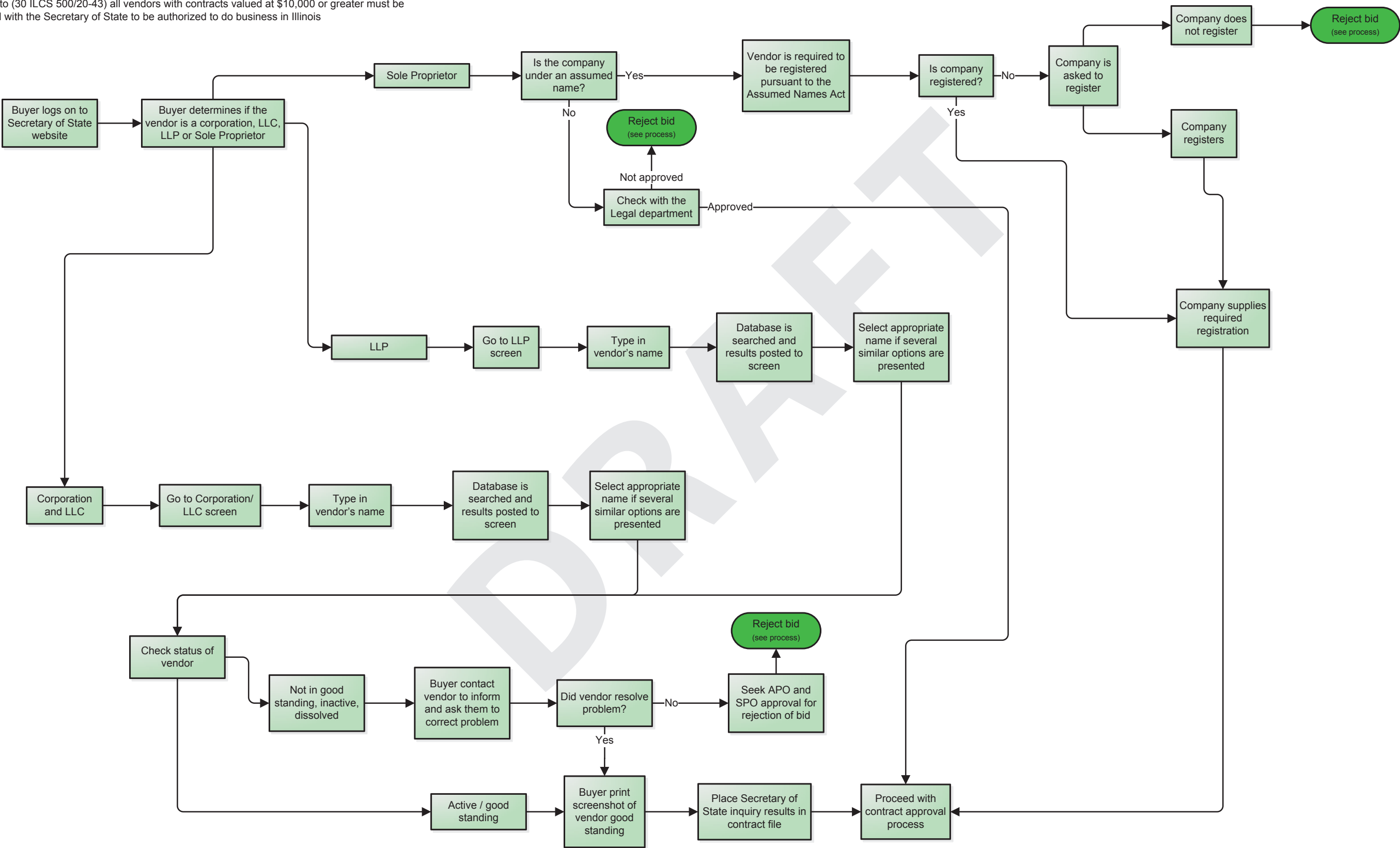
2/22/2012



3/12/2012



Pursuant to (30 ILCS 500/20-43) all vendors with contracts valued at \$10,000 or greater must be registered with the Secretary of State to be authorized to do business in Illinois



Small Business Waiver (DRAFT)

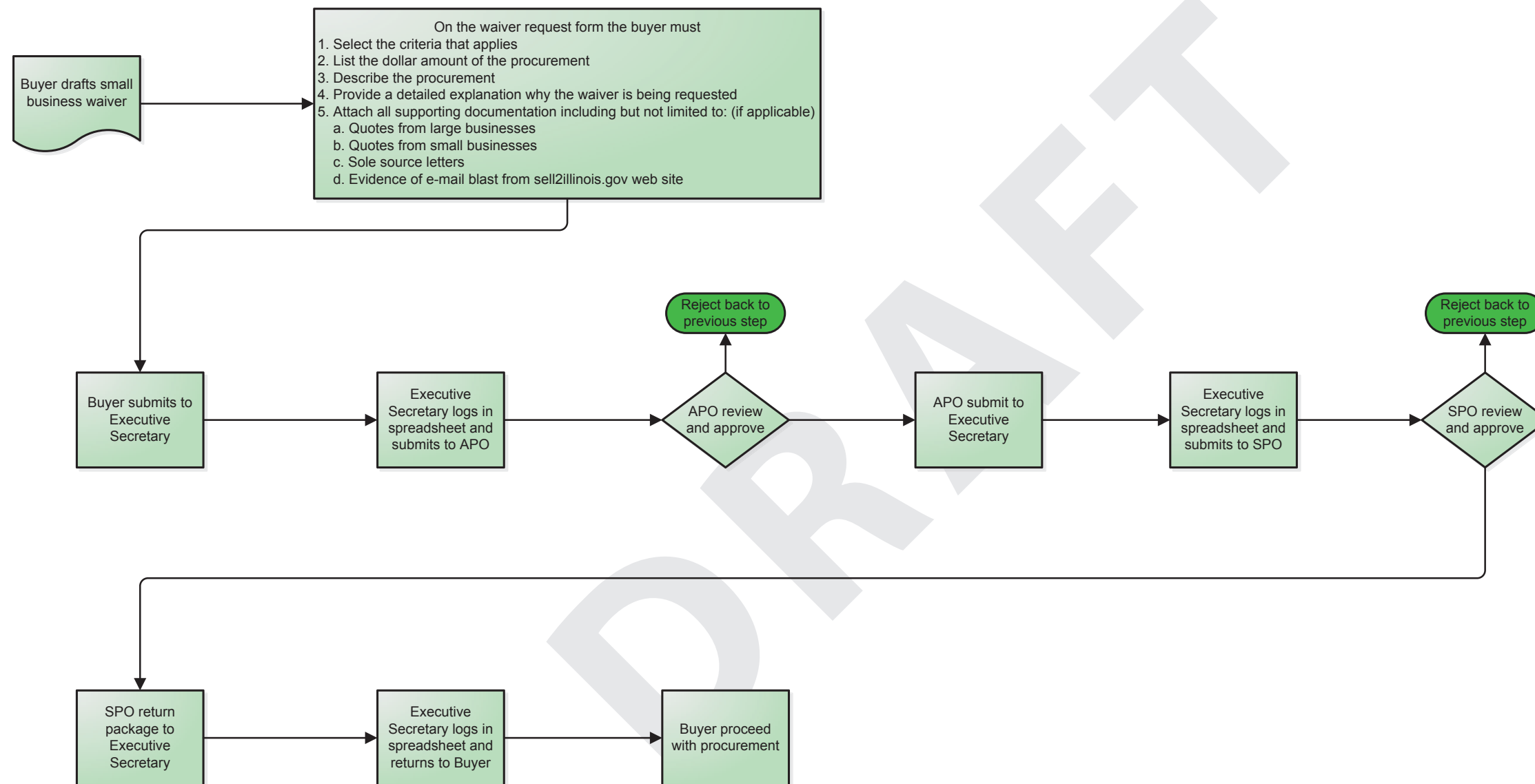
Pursuant to CPO Notice 2012.04:

Any procurement that falls in any of the 64 designated categories (see notice),
or procurements of \$50,000 or less must be awarded to a certified small business
vendor listed on the sell2illinois.gov web site.

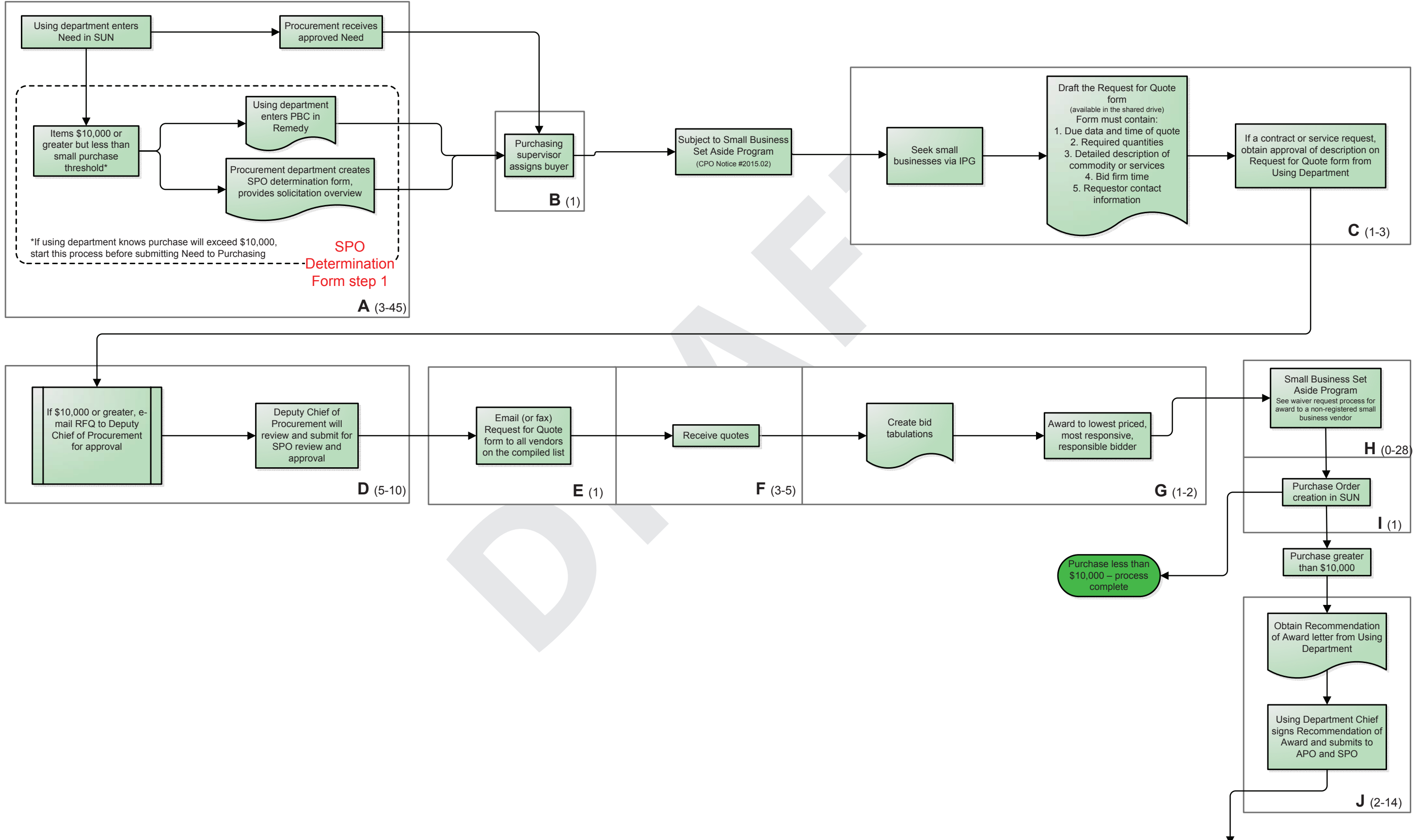


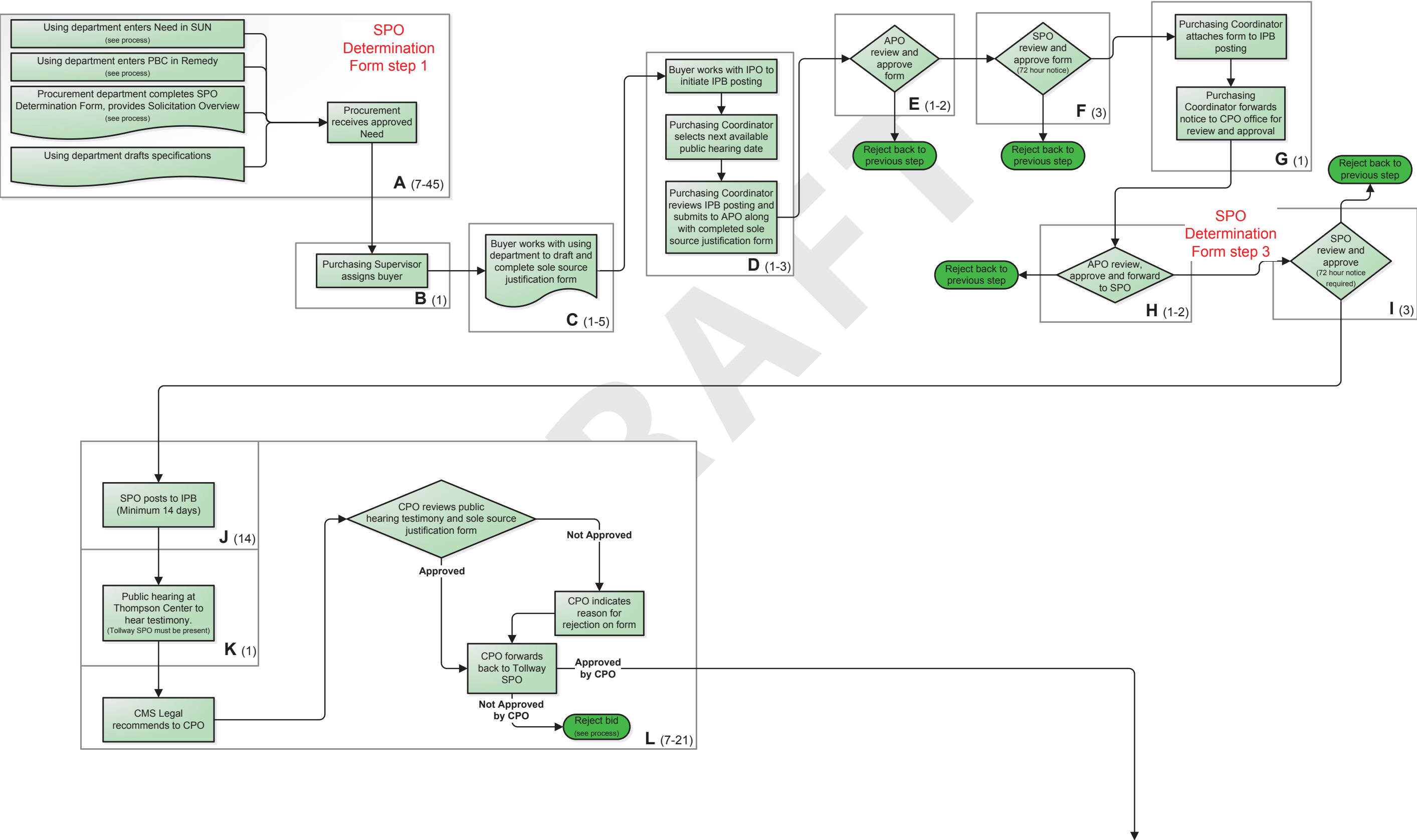
If the procurement meets the criteria but is not being awarded to a small business, a waiver must be obtained prior to award.

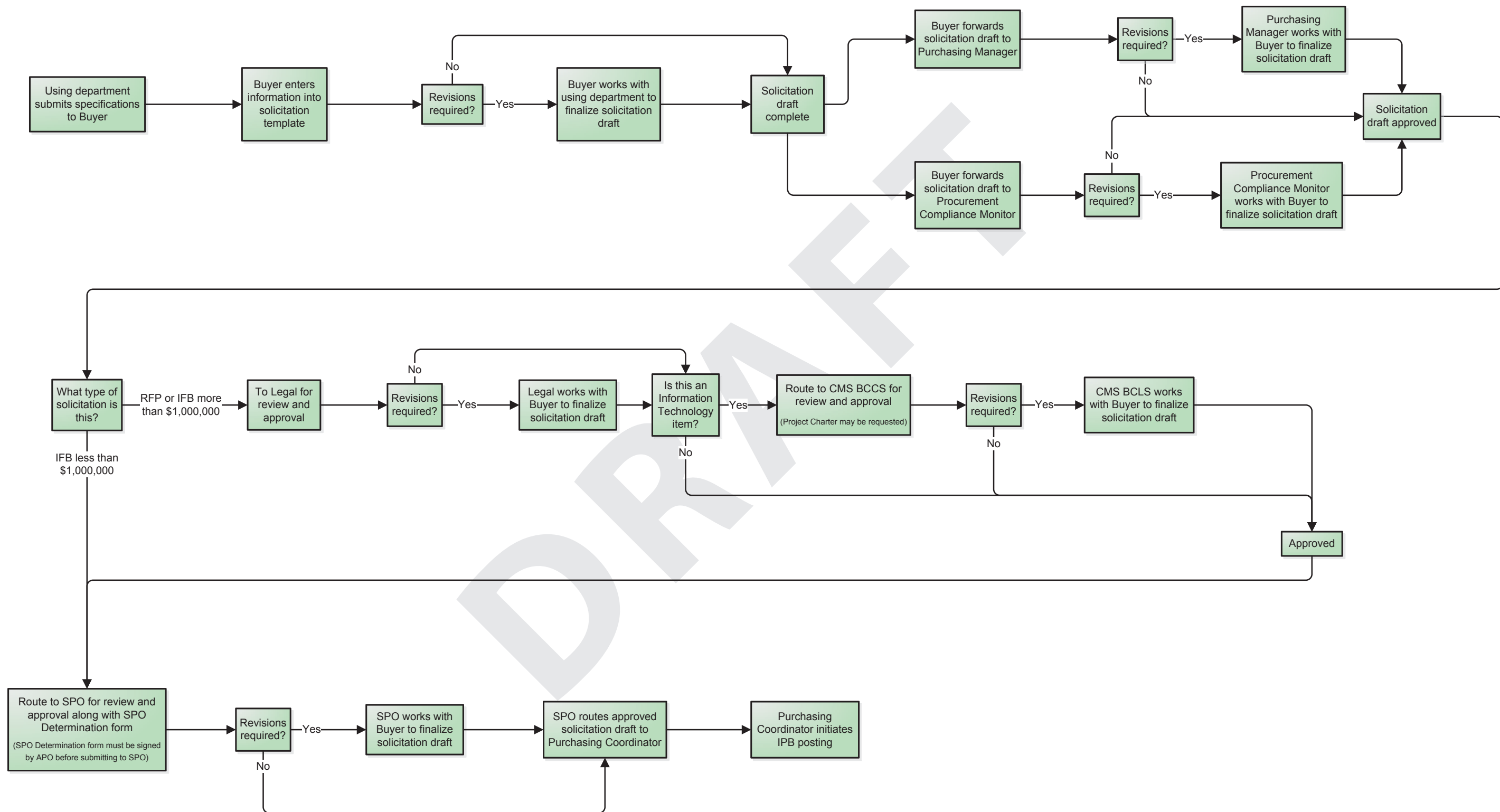
2/04/2012



Small Purchases (for items not available on CMS master contract) (DRAFT)
for items below the small purchase threshold (\$50,000 for goods/services, \$20,000 for professional/artistic)
4/23/2012 (REVISED 11/07/14)







SPO Determination Forms

- Notes:
1. This process is currently evolving
 2. IPO begins process at inception of procurement (When PBC is created)
 3. SPO Determination is a four step process
 1. Approval for initial procurement
 2. Approval of solicitation
 3. Approval of notice of intent to award
 4. Approval of final contract
 4. Each step requires the approval of the APO and SPO
 5. SPO Determination form is maintained on the IPB
 6. SPO Determination form is an active document with sections that are completed as the procurement progresses.
 7. New requests are compiled and submitted to the APO weekly
 8. Once APO approves, the Executive Secretary submits SPO Determination forms to SPO for approval
 9. SPO Determination form is routed to APO and SPO as step levels are reached.
 10. Procurement is in the process of transitioning to Share Point for the tracking of the SPO Determination Form

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Administrative Order 2 (2009)

This Administration is firmly committed to adhering to the principles articulated in the United States Supreme Court decision, *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990) ("Rutan"), and its progeny, as well as Administrative Order No. 1 (1990), No. 2 (1990), and No. 1 (1991) (collectively, the "Prior Administrative Orders"), all of which prohibit consideration of political affiliation or support (or lack thereof) in connection with hiring, promotion, transfer, or recall from layoff, with respect to employment positions covered by the Rutan decision ("Rutan-covered positions").¹

It is the intent of this Directive (i) to provide guidance and clarification with respect to certain aspects of the Prior Administrative Orders, all of which are hereby affirmed and shall remain in effect, and (ii) to announce certain new guidelines and procedures relating to personnel transactions for Rutan-covered positions. It is not the intent of this Directive to mandate a single, specific set of personnel procedures to be used in connection with every single personnel transaction or to limit the ability of agencies, boards, and commissions to impose job-related requirements and procedures (e.g., background checks, drug testing, residency requirements, job-related driver's license requirements), in addition to those set forth below, prior to making an offer of employment, so long as they are not inconsistent with any policies or procedures described herein, or any applicable laws. Instead, through the guidelines and procedures set forth below, this Directive seeks to ensure that applicable decision-making processes comply with Rutan and rely upon politically neutral, merit-based criteria.

I. Scope

This Directive shall apply to all personnel transactions relating to Rutan-covered positions of State agencies, boards, and commissions under the jurisdiction of the Office of the Governor ("OOG"), whether or not the positions affected by the personnel transactions in question are under the jurisdiction of the Personnel Code and Rules. That is, this Directive applies to both "code" and "non-code" positions under the jurisdiction of the OOG.

In the event of a conflict between this Directive and the requirements of a collective bargaining agreement, the collective bargaining agreement shall govern. In the event of a conflict between this Directive and any policies or procedures relating to employment positions or personnel transactions that are set by statute (e.g., the Veteran Preference set forth in 20 ILCS 415/8b.7), the policies and procedures set by statute shall govern.

II. Employment Applications

A. Submission of Applications

1. The Bureau of Personnel in the Department of Central Management Services ("CMS") has served and shall continue to serve as the central point of intake for all

employment applications under the jurisdiction of the Personnel Code and Rules ("coded classifications").

2. Each Rutan-covered position shall be posted on the Work 4 Illinois website, <http://www.work.illinois.gov> (<http://www.work.illinois.gov/>), which can be accessed from home or through public access computers at most public libraries or State offices.
3. Any employee of an agency, board, or commission under the jurisdiction of the OOG who receives a personnel request, referral, or recommendation for a Rutan-covered position shall refer the person making the request, referral, or recommendation to CMS Governmental Affairs for disposition.

B. Grading of Applications

1. For coded classifications under the jurisdiction of the OOG, subject to any time limitation on when applications will be accepted and how long an application can remain active, CMS personnel shall grade each application for a classification in the order in which the application has been received and shall not grade any application out of order. Subject to the limitations, above, all other classifications under the jurisdiction of the OOG, but not under the jurisdiction of the Personnel Code and Rules ("non-code positions") shall be graded in the order received by the employing agency, board, or commission.
2. Each application shall have the name of the applicant and any references or any other personally identifiable information redacted so that the grading can be done on a blind basis. CMS personnel shall perform any necessary credential verification in a manner that preserves the integrity of the blind grading process. As soon as practicable, CMS will move towards a fully automated system.
3. The grader shall employ objective, merit-based criteria in his or her grading of applications. Grading shall be free from all political considerations.
4. All documents and data regarding applications for Rutan-covered positions shall be available for regular auditing.

C. Creation of Eligibility Lists

In creating an open competitive eligible list, to be utilized by an agency for an open Rutan-covered position, CMS shall redact the names of the applicants and other personally identifiable information so that the selection of candidates for an interview pool can be done on a blind basis.

D. Job Descriptions

Job descriptions shall be reviewed and, if necessary, updated prior to any Rutan-covered posting, to reflect current duties, responsibilities, and requirements.

III. The Interview, Evaluation, and Selection Process

Administrative Order No. 2 (1990) contains detailed procedures and guidelines for conducting applicant interviews for Rutan-covered positions in a manner intended to ensure compliance with Rutan. This Directive reaffirms the applicability of the interview, evaluation, and selection guidelines set forth in Administrative Order No. 2 (1990) and supplements that Order with the following additional procedures and guidelines:

A. Training of Interviewers

1. CMS and other State agencies, boards, and commissions have training programs to orient agency employees responsible for making personnel decisions to the State's Rutan hiring procedures and corresponding interview and selection methods ("Rutan training"). Rutan training and certification has proven to be an effective component of the State's Rutan compliance program. The current website to register for CMS's Rutan training is http://www.state.il.us/cms/2_servicese_edu (http://www.state.il.us/cms/2_servicese_edu).
2. Any agency employee who participates in the interview of a candidate for a Rutan-covered position must have successfully completed Rutan training. A non-certified member of an interview panel may only function in a technical expert capacity; he or she may ask specific technical follow-up questions to clarify a response and assist the certified interviewers in understanding technical responses given by the interviewee, but he or she may not participate in the evaluation and scoring process.
3. As soon as practicable, but no later than six months after the date of this Directive, CMS shall develop a Refresher Course for re-certification of Rutan interviewers. The Refresher Course may be offered online or in any other appropriate format. The Refresher Course for interviewers shall review key elements of the State's Rutan compliance program, offer updates as to changes or enhancements in compliance policies and practices, and include an evaluative component to ensure that those taking the Refresher Course continue to have an appropriate knowledge of compliance guidelines and procedures. Once the Refresher Course is implemented, each Rutan interviewer must successfully complete the Refresher Course and be re-certified at least once every 3 years.

B. Interview Panels

1. Rutan interviewers must make their assessments of candidates based upon their responses to a pre-determined and uniform set of job description-related questions that are developed prior to posting and posed during the interview (as outlined in Administrative Order No. 2 (1990)), in an atmosphere where interviewers are free of advance knowledge of candidates and of outside influences. Rutan interviewers must be insulated from any attempts to sway their assessments or hinder their objectivity. No interview panel should include, either as interviewers or as technical advisors, any person who is related to, or otherwise

would have a conflict of interest in connection with evaluating, any of the applicants for the position.

2. Since multi-member interviewer panels provide greater input and reduce the risk of improper influence in the hiring process for Rutan-covered positions, agencies shall utilize such panels rather than single interviewers in the interview and evaluation process. Members of the interview panel must remain consistent throughout the course of the interview process for a position. A technical advisor who has not completed training to be a certified Rutan interviewer shall not be considered a member of an interview panel for purposes of determining the numerical composition of the panel. Under limited circumstances, the Director of CMS or his or her designee may approve the use of single interviewers for Rutan interviews and evaluations, but only after the director of the requesting agency provides written justification for the use of a single interviewer.

C. Interview, Evaluation, and Selection of Candidates

1. Administrative Order No. 2 (1990) contains appropriate guidelines for the interview and evaluation of candidates, and it is hereby affirmed. In addition to those guidelines, the following guidelines shall also apply to the interview and evaluation process for all Rutan-covered positions.
2. To the extent practicable, the agency shall interview all reachable applicants. In situations where it is not practical to interview all reachable applicants, the agency shall use a standardized method to select the names of candidates to interview for a position. Such a method shall be based on: (i) factors related to the merits of the individual applicants, (ii) random selection, or (iii) any other reasonable, impartial, and legally compliant standard. In the event that an agency uses a method other than random selection, however, it shall create a written record, specifically identifying the alternative selection method used and the justification for its use.
3. Prior to commencing interviews for a Rutan-covered position, the interview panel shall ensure that the Hiring Criteria and Interview Questionnaire agreed upon for the interviews and developed prior to posting are preserved and made a part of the Rutan file for that position. Rutan files must be maintained separately from employee personnel files.
4. Copies of the Interview Questionnaire, which shall include the interviewer(s) summary(ies) of a candidate's responses to each question and the weighted score assigned by the interviewer(s) thereto, shall be placed in the Rutan file and preserved.
5. A Candidate Evaluation Form, reflecting the interview assessments of the candidate's qualifications against each criterion for the position at issue, should be preserved for each candidate interviewed and made a part of the Rutan file for the

position. Each member of the interview panel shall sign and date the form and certify that the evaluation was not based on political party affiliation or support (or lack thereof).

6. The Employment Decision Form for the position shall be preserved and made a part of the Rutan file for the position. The form shall include a written justification for the agency's decision as to the candidate chosen to be hired for the position. The agency director or his/her designee shall sign and date the form and certify that the employment decision was not based on political party affiliation or support (or lack thereof).
7. In the event that an agency decides to cancel an opening rather than hire any of the interviewed candidates, a written justification for the cancellation decision shall be included in the Rutan file.

D. Retention of Records

1. Each agency shall maintain Rutan files for each job position number in chronological order, so that hiring decisions can be audited.
2. Rutan files shall be maintained for a period of three years from the date of the employment decision or in accordance with agency record retention policies, whichever is longer, at which time the files shall be transferred to the State Records Center for disposition in accordance with the State Records Act, 5 ILCS 160/1 et seq.

IV. Savings Clause

Nothing in this Directive shall be construed to contravene the terms of any collective bargaining agreement or any State or federal law.

V. No New Rights Created

Nothing in this Directive is intended to create any new right or benefit, substantive or procedural, enforceable at law by a party against the State of Illinois, its agencies, boards, commissions, officers, or employees, or any person.

VI. Severability

If any provision of this Directive is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

VII. Effective Date

This Directive shall become effective immediately.

Unless otherwise noted, to the extent any new requirements in this Directive are not already fully in place, the responsible State agencies, boards, and commissions under the jurisdiction of the OOG shall have 120 days to become fully compliant.

Pat Quinn

GOVERNOR

Issued: December 10, 2009

1: As used in this Directive, "Rutan-covered refers to an employment position that is subject to the requirements of Rutan. [Back to Previous Position](#)

DRAFT

BY-LAWS OF
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

ARTICLE I

Location

Section 1. Location - The principal office of The Illinois State Toll Highway Authority (“Tollway”) shall be located in the Administration Building at 2700 Ogden Avenue, Downers Grove, Illinois. The Tollway may have such other offices within the State of Illinois as it may from time to time provide for by resolution.

ARTICLE II

Seal

Section 1. Seal - The corporate seal of the Tollway shall consist of the emblem of the State of Illinois with the words “Seal of The Illinois State Toll Highway Authority” around the outer perimeter.

ARTICLE III

Officers

Section 1. Chairman

(a) The Chairman shall preside at all meetings of the Board of Directors of the Tollway (“Board”), be the Chief Executive Officer of the Tollway, create agendas for all board and committee meetings, perform all the duties commonly incident to the position of presiding officer of a board or

commission as provided by law, and perform such other duties and have such other powers as the Board may from time to time prescribe by resolution.

(b) The Chairman shall approve or disapprove all resolutions, by-laws, rules, rates and regulations made and established by the Board.

(c) The Chairman shall nominate a Vice-Chairman with majority consent of the board.

(d) If the Chairman is unable to preside at a meeting or over a particular item, the Vice-Chairman shall be appointed for the limited duration of the Chairman's absence.

Section 2. Directors - The Directors shall meet as a Board of Directors at such dates and times as hereinafter provided. The Board of Directors shall have the power and duty to enforce and execute the provisions of the Toll Highway Act

Section 3. Secretary - The Board shall biannually select a Secretary and fix the Secretary's compensation. The Secretary, or an Assistant Secretary approved by the Board, shall be present at all meetings of the Board and keep accurate records in books provided for that purpose. The Secretary or Assistant Secretary shall have all additional and necessary powers incident to the performance of his office and such other duties as from time to time may be authorized, ordered or directed by the Board or the Chairman.

Section 4. Standing Committees

(a) The Board shall have the following standing committees:

1. Customer Service and Planning Committee
2. Finance Administration Operations Committee

3. Audit Committee

4. Diversity & Inclusion Committee

(b) Each standing committee shall operate in accordance with a charter approved by the Board via resolution and that is consistent with these By-Laws.

(c) Each standing committee shall consist of a Chair and up to five Directors selected by the Board Chairman, based on their expressed interest and expertise, and approved by the Board via resolution. Additionally, each standing committee Chair shall have the ability to appoint an alternate(s) to serve in the place of an absent or disqualified member(s) during a member's absence or disqualification; provided, however, that in the event that a standing committee Chair is unwilling or unavailable to appoint an alternate, the Board Chairman shall have the ability to so appoint. Alternates duly appointed to serve on a standing committee pursuant to this Section shall be included in the determination of the establishment of a quorum and shall have full voting rights during the period of appointment.

The Board shall have the power by resolution to create such other offices and committees and prescribe the duties thereof as it may deem necessary from time to time.

ARTICLE IV

Meetings

Section 1. Quorum- Six Directors of the Board shall constitute a quorum. A quorum must be physically present at the location of the Board meetings. The affirmative vote of six Directors shall be necessary for any action to be taken by the Board. No vacancy in the Board shall impair the right of the quorum of the Directors to exercise all the rights and perform all the duties of the Board.

Section 2. Regular Meetings

(a) The Board shall, at the beginning of each calendar year, adopt a schedule of all its regular meetings for such calendar year, listing the dates, times, and places of such meetings.

(b) In any case in which it appears to the Chairman to be inexpedient that any regular meeting be held at the date, time or place provided, the Chairman is authorized to change the date, time or place of such meeting by notice to each Director.

(c) The Board shall conduct its meetings in accordance with the provisions of the Illinois Open Meetings Act.

(d) Directors may participate in any board meeting by complying with the rules and statutes identified in the Illinois Open Meetings Act.

Section 3. Special Meetings– In accordance with the provisions of the Illinois Open Meetings Act, special meetings may be held at any date, time or place within the State of Illinois upon the call of the Chairman and a quorum of Directors specifying the date, time, place and general purpose of the special meeting. Notice of a special meeting shall be given to each Director by providing each Director with a copy of the agenda for the special meeting by mail, hand delivery, or electronic transmission at least forty-eight hours prior to the meeting.

Section 4. Public Notice; Agenda– Public notice of all meetings, whether open or closed to the public, shall comply with all requirements of the Illinois Open Meetings Act.

Section 5. Public Comment– The Board shall set aside a portion of each meeting that is open to the public during which members of the public who are present at the meeting may comment on any subject.

Section 6. Order of Business- The order of business at regular meetings, and so far as practicable at all other meetings, shall be:

- (a) Roll Call
- (b) Public Comment
- (c) Approval of minutes of past meetings
- (d) Reports of Officers
- (e) Reports of Committees
- (f) Approval of contracts, settlements, acceptance of proposals, other business that may need approval of the board including resolutions
- (g) Executive Session
- (h) Unfinished Business
- (i) New Business
- (j) Recess or adjournment

The Rules of Parliamentary Practice contained in the latest edition of *Robert's Rules of Order* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the By-Laws or applicable law.

Section 7. Written Minutes of Meetings

(a) As required by the Illinois Open Meetings Act, or other law, the Tollway shall keep written minutes of all its Board meetings, whether open or closed, and a verbatim record of all closed Board meetings. Such minutes shall include, but need not be limited to:

- (1) the date, time and place of the meeting;
- (2) the members of the Board recorded as either present or absent and whether the members were physically present

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) The minutes of meetings open to the public shall comply with the Illinois Open Meetings Act.

ARTICLE V

Administrative Offices and Departments

Section 1. Administrative Departments- The Board may, by resolution, create or reorganize such administrative offices and departments and prescribe the duties thereof, as it may deem necessary and essential for the purpose of carrying out the Toll Highway Act and the policies of the Board

ARTICLE VI

Execution of Documents

Section 1. Execution of Documents - All policies, contracts and agreements entered into by the Tollway shall be duly executed on its behalf by the Chairman, attested by the Secretary or Assistant Secretary, and the corporate seal affixed thereto, except as hereinafter provided. All vouchers, warrants, checks or orders on the Treasurer of the State of Illinois for the disbursement of funds of the Tollway shall be signed by the Chairman and countersigned by the Secretary or Assistant Secretary, except as hereinafter provided. Execution and signature as hereinbefore provided shall be in accordance with the foregoing provisions of this section, except where general or specific authority is expressly delegated by resolution to other officers or agents of the Tollway as permitted by law and except where otherwise required by law. New contracts, contract renewals, and orders against

master contracts in the amount of \$250,000 or more in a fiscal year or as otherwise specified in the State Finance Act, and amendments or changes to existing contracts that increase the value of such contract by \$250,000 or more in a fiscal year shall be executed by the Chairman, the Chief Fiscal Officer, and the General Counsel of the Tollway, or appropriate designee.

ARTICLE VII

Conflicts of Interest

Section 1. Directors shall avoid conflicts of interest arising from the performance of their duties and comply with the requirements of these By-Laws, the Tollway's Code of Ethics, the State Officers and Employees Ethics Act, the Procurement Code, Public Officer Prohibited Activities Act and all other applicable laws. Directors shall consult with the Tollway's Ethics Officer with respect to the statutes in this section or any potential conflict of interest.

Section 2. Conflict of Interest – For purpose of these By-laws, a “Conflict of Interest” occurs when a Director's personal interest conflicts with the Director's Tollway duties and responsibilities or when a Director participates or seeks to participate in, **or influence any** Tollway action in which the Director, the Director's spouse or immediate family member living in the Director's residence has a personal interest. A Conflict of Interest may arise even if the Director or his/her affiliated family members do not have a direct pecuniary interest in a Tollway action.

Section 3. Identification of Conflicts of Interest – Directors are responsible for identifying Conflicts of Interest. Such Conflicts of Interest may occur as part of Board activities or in other interactions of the Directors with Tollway decision-making processes. Directors shall review⁷ agendas prior to Board meetings to

determine if they have any Conflicts of Interest.

On an annual basis, and as required by law, the Ethics Officer will review the Statements of Economic Interest and disclosure forms of Directors in order to assist Directors and the Tollway in identifying any actual or potential Conflicts of Interest. Directors shall complete annual ethics and conflict of interest training as required by law. Directors shall take reasonable steps to make themselves familiar with all relevant conflict of interest laws, regulations and policies and consult with the Tollway's Ethics Officer, their personal attorney or other appropriate officials when necessary to identify and properly respond to a Conflict of Interest.

Section 4. Director Disclosure Statement - Directors must disclose any Conflict of Interest to Ethics Officer within 72 hours following the discovery of a Conflict of Interest. Directors must indicate in their disclosure statements whether they will recuse themselves pursuant to Section 4 when the matter involving a Conflict of Interest is considered by the Board, including any committee thereof, and take other corrective steps pursuant to Section 5. When necessary because of late discovery of a Conflict of Interest, verbal disclosures can be made during meetings and will be included in the official meeting minutes along with the record of other recusals. A Director who makes such a verbal disclosure of a Conflict of Interest at a meeting shall submit a disclosure statement within 72 hours after such meeting.

Section 5. Recusal - Directors shall recuse themselves whenever there is a Conflict of Interest. Directors who recuse themselves from a matter in which the Director has a Conflict of Interest shall refrain from voting on the matter at a Board meeting or a meeting of any committee thereof. During a vote on the matter in

question, Directors who have recused themselves shall:

- a) Withdraw from the discussion of the subject matter; and
- b) Not vote on approval or award of the contract in any committee or full board hearing.

Section 6. Other Action - In addition to recusal, a Director who has a Conflict of Interest shall refrain from taking any action for the purpose of influencing action by Tollway management or the Tollway Board with respect to the matter giving rise to the Conflict of Interest. A Director who has a Conflict of Interest shall also refrain from taking any action for the purpose of influencing action by any third party with respect to the matter that has given rise to the Conflict of Interest.

Section 7. Third-Party Disclosure - If a third party brings a potential Conflict of Interest concerning a Director to the attention of any Director or Tollway employee the Director or Tollway employee shall disclose the matter to the Ethics Officer. The Ethics Officer shall disclose the potential Conflict of Interest and to the Director identified as having a potential Conflict of Interest. Upon notification of such a potential Conflict of Interest, the Director will file a disclosure statement pursuant to Section 3 outlining the Conflict of Interest or stating why there exists no Conflict of Interest and the provisions of Sections 4 - 6 shall apply.

Section 8. Abstention - A Director may abstain from voting for reasons other than a Conflict of Interest when the Director has inadequate information on which to judge the merits of the proposed action.

Section 9. Sanctions - The Board may impose any sanction, take any corrective action or make any referrals allowed by law with respect to a Director as they deem appropriate.

ARTICLE VIII

Amendments

Section 1. Amendments - These By-Laws may be amended at any meeting of the Board by the affirmative vote of at least six Directors.

As Amended March 29, 2018

CODE OF ETHICS FOR THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

SECTION I PURPOSE

In order to instill the trust and confidence of the public, the Directors and employees of The Illinois Tollway shall treat their jobs as a public trust. Tollway Directors and employees shall act in the public's best interest to ensure the Authority accomplishes its statutory purpose. Directors and employees shall not act for their personal benefit or for any other private interest that conflicts with the public's trust. Directors and employees should work towards the public good by adhering to the highest professional standards. Integrity is essential. All Directors and employees must act according to the ethical principles and standards established herein.

Ethical behavior of Directors and employees will be evaluated by compliance with this Code of Ethics (hereinafter referred to as "Code"). This Code shall inform, guide, and assist Tollway Directors and employees in conducting themselves in an ethical manner. If a Director or employee has any question regarding the application of this Code to specific factual circumstances, he or she should consult the Tollway's General Counsel or his or her attorney for guidance on individual matters of concern.

Where such matters are governed by law, regulation, rule, or a contract duly approved and entered into by the Tollway, the provisions of such law, rule, regulation or contract shall prevail over any conflicting provisions of this Code. This Code does not constitute or promise enforceable against the Tollway by any person.

DEFINITIONS

When used in this Code, the following terms shall have the following meaning:

- a. **"Tollway"** means The Illinois State Toll Highway Authority.
- b. **"Board"** means the members of the Board of Directors of the Tollway.
- c. **"Confidential Information"** means Tollway information known or gained by a Director or employee during the course of association or employment with the Tollway other than that which can be obtained pursuant to the Illinois Freedom of Information Act (5 ILCS 170/1 et seq.), as amended from time to time, as determined by the designated Freedom of Information Act officer of the Authority or which is otherwise known to the public.
- d. **"Conflict of Interest"** occurs when a Director's or employee's interest conflicts with his or her Tollway duties and responsibilities or when an employee participates or seeks to participate in, or influence any Tollway decision in which the employee has an economic interest.

- e. **“Contract”** means any agreement between the Tollway and any entity to provide services and/or supplies to the Tollway.
- f. **“Director” & “Directors”** means the Chairman of the Board of Directors of the Tollway, the Executive Director, those individuals serving as members of the Board of Directors.
- g. **“Economic Disclosure Statement”** means any and all written statements that are required to be filed with the Secretary of State and/or the State Board of Ethics.
- h. **“Gift”** means any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible intangible item having monetary value related to or attributable to government employment or the official position of the employee.
- i. **“Person” & “Person or Entity”** means an individual, entity, corporation, partnership, firm, association, union, trust, estate, as well as any subsidiary of any of the foregoing.
- j. **“Relative”** means a parent, spouse, in-law, brother, sister, or child.

SECTION II EMPLOYEE ETHICS

- a. No employee shall intentionally or knowingly disclose, divulge or make known any Confidential Information or matters to anyone not employed or engaged by the Tollway unless authorized by law or the Executive Director.
- b. All employees shall be prohibited during the course of their association with the Tollway from financially profiting from knowledge and information obtained through his or her employment with the Tollway.
- c. Employees who are required to do so, shall timely file any and all Economic Disclosure Statement(s) with the Tollway’s Ethics Officer before they are filed with the Secretary of State.
- d. No employee shall engage in any of the following activities during his or her working hours which includes meals and breaks:
 - i. Organizing a political event or any political meeting.
 - ii. Soliciting money from any Tollway employee for a political candidate or for any political purpose.
 - iii. Selling or distributing tickets for political meetings and/or political fundraisers.

- iv. Initiating or circulating petitions on behalf of a candidate or for or against a political issue or referendum.
- v. Soliciting political contributions from any contractor, sub-contractor, consultant, sub-consultant, supplier or any other organization or person(s) doing business with the Tollway.

EMPLOYEE CONFLICTS OF INTEREST

- a. **In General** – No employee shall engage in any activity if such activity will:
 - i. Create a Conflict of Interest;
 - ii. Result in the employee or a relative of the employee receiving an economic benefit through or by virtue of any connection with the Tollway, or
 - iii. Interfere with the proper and effective performance of his/her duties and responsibilities to the Tollway.
- b. **Negotiations** – No employee shall directly participate in, or attempt to influence any Contract negotiations on behalf of the Tollway with any Person or Entity with whom that employee has an agreement for future employment or other affiliation or is negotiating for future employment. An employee's position as a union official does not in itself create a Conflict of Interest.

EMPLOYEE SECONDARY/OUTSIDE EMPLOYMENT

An employee may accept secondary employment so long as such employment is not in conflict with the employee's responsibilities to the Tollway, or will not interfere with the employee's official duties during normal working hours. An employee engaged in such employment is prohibited from conducting any business or performing any duties, including solicitation, relating to such employment on Tollway premises or during the employee's normal working hours for the Tollway. The employee is also prohibited from any outside business use of any Tollway-owned or leased materials, equipment, programs, or facilities.

SECTION III ETHICS APPLICABLE TO DIRECTORS

- a. A Director must avoid conflicting circumstance of competing fiduciary duties, divided loyalties or personal interests in his or her relationships with the Tollway. A Directors' position as an elected or appointed governmental official or a union official does not in itself create a Conflict of Interest. Conflicting circumstances may be cured if the Director publicly discloses such conflict and does not participate or vote on the matter causing the conflict. Such disclosure shall be read into and made part of the record of the meeting of the Board.
- b. No Director shall engage in any activity if such activity will:

- i. Create a Conflict of Interest;
 - ii. Result in the Director or a relative of the Director receiving an economic benefit through or by virtue of any connection with the Tollway;
 - iii. Interfere with the proper and effective performance of his/her duties and responsibilities to the Tollway. See Exhibit "A".
- c. All Directors and their relatives shall be prohibited from financially profiting from knowledge and Confidential Information obtained through his or her position with the Authority.
- d. All Directors shall timely file any and all Economic Disclosure Statements with the Tollway's Ethics Officer before they are filed with the Secretary of State.

SECTION IV THE STATE OFFICIAL AND EMPLOYEES ETHICS ACT (5 ILCS 430/1 et seq.)

The Illinois State Legislature enacted the State Official and Employee Ethics Act (hereinafter referred to as the "Act") effective November 19, 2003, which applies to both the Directors and all Tollway employees. The Act prohibits the acceptance of Gifts, which include any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value related to or attributable to government employment of the official position of the employee. However, it is subject to certain limited exceptions. The Act is attached as Exhibit "B".

SECTION V ILLINOIS PROCUREMENT CODE (30 ILCS 500/1 et seq.)

The Illinois State Legislature enacted the Illinois Procurement Code, effective July 1, 1998, for the purpose of establishing uniform guidelines and ethical standards relating to the procurement of goods and services. The Illinois Procurement Code applies to all purchases and Contracts by and for any State Agency, including the Tollway. The following ethical provisions are stated for added emphasis;

- a. Unless an exemption is obtained under 50-20, it is a violation of the Illinois Procurement Code for any Director or employee or their spouse or minor child to have or acquire a Contract that is paid for by State or Tollway funds. 30 ILCS 500/50-13.
- b. Unless an exemption is obtained under 50-20, it is a violation of the Illinois Procurement Code for any firm, partnership, association, or corporation in which any Director or employee or their spouse or minor child is employed or associated with any from which they receive (i) more than 7.5% of the total distributable income or (ii) an amount in excess of the salary of the

Governor, to have or acquire any such contract or direct pecuniary interest therein.

- c. Unless an exemption is obtained under 50-20, it is a violation of the Illinois Procurement Code for any firm, partnership, association, or corporation in which any Director or employee or their spouse or minor child is employed or associated with and from which together they receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times in the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.
- d. Chief Procurement Officers, Associate Procurement Officers, State Purchasing Officers, their designees whose principal duties are directly related to State procurement, are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the Tollway.
- e. When for any reason, Tollway employees suspect collusion or other anti-competitive practice among bidders, offerors, contractors, proposers, or employees of the Tollway a notice of the relevant facts shall be transmitted to the Attorney General and the Chief Procurement Officers.
- f. Any Chief Procurement Officers, State Purchasing Officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, Contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or Contract process shall be subject to immediate dismissal, regardless of the Personal Code, or Contract, or collective bargaining agreement, and may in addition be subject to criminal prosecution.

SECTION VI SEVERABILITY CLAUSE

If any provision of this Code shall be held to be invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION VII PENALTIES, RECEIPT & EFFECTIVE DATE

Any violation(s) of this Code may result in disciplinary action, up to and including discharge or removal. Every Director or employee shall certify that he or she has received this Code by signing and completing the receipt located on the last page. This Code shall become effective on April 1, 1999.

EXHIBIT 'A'

Roads and Bridges – Toll Highway Act 5 ILCS 605 10/1 et seq.

To the extent that any statutory provision is modified, current law will apply.

605 ILCS 10/28.1. Directors and officers – Pecuniary interest

§28.1. No director or officer of the Authority shall be interested, directly or indirectly, in any contract, agreement, lease, work or business of the Authority, or in the sale of any article whenever the expense, price or consideration of the contract, agreement, lease, work, business or sale is paid by the Authority. No director or officer of the Authority shall be interested, directly or indirectly, in the purchase, sale or lease of any property which (1) belongs to the Authority, (2) is sold, leased or any interest therein is acquired by the Authority, or (3) is sold by virtue of legal process at the suit of the Authority.

605 ILCS 10/29. Misconduct of directors and officers

§29. Every chairman, director, or officer of the Authority who is guilty of a palpable omission of duty, or who is guilty of willful and corrupt oppression, misconduct, or misfeasance in office in discharge of the duties of his office shall be liable to indictment in any court of competent jurisdiction and shall be guilty of a Class A misdemeanor. Any conviction hereunder shall constitute grounds for removal as provided in Sections 4 and 5 of this Act.

EXHIBIT 'B'

State Officials and Employees Ethics Act 5/ILC 430 et seq.

To the extent that any statutory provision is modified, current law will apply.

430/1-1. Short Title

§1-1. Short title. This Act may be cited as the State Officials and Employees Ethics Act.

430/1-5. Definitions

§1-5. Definitions. As used in this Act:

"Appointee" means a person appointed to a position in or with a State agency, regardless of whether the position is compensated.

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected State office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act.

"Commission" means an ethics commission created by this Act.

"Compensated time" means any time worked by or credited to a State employee that counts toward any minimum work time requirement imposed as a condition of employment with a State agency, but does not include any designated State holidays or any period when the employee is on a leave of absence.

"Compensatory time off" means authorized time off earned by or awarded to a State employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with a State agency.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

"Employee" means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed or (ii) any appointee.

"Executive branch constitutional officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, or officer.

"Governmental entity" means a unit of local government or a school district but not a State agency.

"Leave of absence" means any period during which a State employee does not receive (i) compensation for State employment, (ii) service credit towards State pension benefits, and (iii) health insurance benefits paid for by the State.

"Legislative branch constitutional officer" means a member of the General Assembly and the Auditor General.

"Legislative leader" means the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

"Member" means a member of the General Assembly.

"Officer" means an executive branch constitutional officer or a legislative branch constitutional officer.

"Political" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties or governmental and public service functions.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.
- (15) Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article N of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

"Prohibited source" means any person or entity who:

- (1) is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee.
- (2) does business or seeks to do business (i) With the member or officer or (ii) tr. the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee;
- (3) conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee.
- (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee; or
- (5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

"State agency" includes all officers, boards, commissions and agencies created by the Constitution, whether in the executive or legislative branch; all officers, departments, boards, commissions, agencies, institutions, authorities, public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, and bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor. "State agency" includes the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, and the legislative support services agencies. "State agency" includes the Office of the Auditor General. "State agency" does not include the judicial branch.

"State employee" means any employee of a State agency.

"Ultimate jurisdictional authority" means the following:

- (1) For members, legislative partisan staff, and legislative secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, or Minority Leader of the House of Representatives.
- (2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.
- (3) For State employees who are professional staff or employees of the House of

Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For State employees of the Auditor General, the Auditor General.

(6) For State employees of public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, the board of trustees of the appropriate public institution of higher learning.

(7) For State employees of an executive branch constitutional officer other than those described in paragraph (6), the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

430/1-10. Applicability

§1-10. Applicability. The State Officials and Employees Ethics Act applies only to conduct that occurs on or after the effective date of this Act and to causes of action that accrue on or after the effective date of this Act.

430/5-5. Personnel policies

§5-5. Personnel Policies.

(a) Each of the following shall adopt and implement personnel policies for all State employees under his, her, or its jurisdiction and control: (i) each executive branch constitutional officer, (ii) each legislative leader, (iii) the Senate Operations Commission, with respect to legislative employees under Section 4 of the General Assembly Operations Act, (iv) the Speaker of the House of Representatives, with respect to legislative employees under Section 5 of the General Assembly Operations Act, (v) the Joint Committee on Legislative Support Services, with respect to State employees of the legislative support services agencies, (vi) members of the General Assembly, with respect to legislative assistants, as provided in Section 4 of the General Assembly Compensation Act, (vii) the Auditor General, (viii) the Board of Higher Education, with respect to State employees of public institutions of higher learning except community colleges, and (ix) the Illinois Community College Board, with respect to State employees of community colleges. The Governor shall adopt and implement those policies for all State employees of the executive branch not under the jurisdiction and control of any other executive branch constitutional officer.

(b) The policies required under subsection (a) shall be filed with the appropriate ethics commission established under this Act or, for the Auditor General, with the Office of the Auditor General.

(c) The policies required under subsection (a) shall include policies relating to work

time requirements, documentation of time worked, documentation for reimbursement for travel on official State business, compensation, and the earning or accrual of State benefits for all State employees who may be eligible to receive those benefits. The policies shall comply with and be consistent with all other applicable laws. The policies shall require State employees to periodically submit time sheets documenting the time spent each day on official State business to the nearest quarter hour; contractual State employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. The policies for State employees shall require those time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years.

(d) The policies required under subsection (a) shall be adopted by the applicable entity before February 1, 2004 and shall apply to State employees beginning 30 days after adoption.

430/5-10. Ethics training

§5-10. Ethics training. Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

Each Inspector General shall set standards and determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 6 months after commencement of his or her office or employment.

430/5-15. Prohibited political activities

§5-15. Prohibited political activities.

(a) State employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

(b) At no time shall any executive or legislative branch constitutional officer or any official, director, supervisor, or State employee intentionally misappropriate the services of any State employee by requiring that State employee to perform any prohibited political activity (i) as part of that employee's State duties, (ii) as a condition of State employment, or (iii) during any time off that is compensated by the State (such as vacation, personal, or compensatory time off).

(c) A State employee shall not be required at any time to participate in any prohibited political activity in consideration for that State employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

(d) A State employee shall not be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the State employee's participation in any prohibited political activity.

(e) Nothing in this Section prohibits activities that are otherwise appropriate for a State employee to engage in as a part of his or her official State employment duties or activities that are undertaken by a State employee on a voluntary basis as permitted by law.

(f) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of State employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

430/5-20. Public service announcements; other promotional material

§5-20. Public service announcements; other promotional material.

(a) Beginning January 1, 2004, no public service announcement or advertisement that is on behalf of any State administered program and contains the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a commercial newspaper or a commercial magazine at any time:

(b) The proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any (i) bumper stickers, (ii) commercial billboard, (iii) lapel pins or buttons, (iv) magnets, (v) stickers, and (vi) other similar promotional items, that are not in furtherance of the person's official State duties or governmental and public service functions, if designed, paid for, prepared, or distributed using public dollars. This subsection does not apply to stocks of items existing on the effective date of this amendatory Act of the 93rd General Assembly.

(c) This Section does not apply to communications funded through expenditures required to be reported under Article 9 of the Election Code.

430/5-30. Prohibited offer or promise

§5-30. Prohibited offer or promise. An officer or employee of the executive or legislative branch or a candidate for an executive or legislative branch office may not promise anything of value related to State government, including but not limited to positions in State government, promotions, or salary increases, in consideration

for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

Nothing in this Section prevents the making or accepting of voluntary contributions otherwise in accordance with law.

430/5-35. Contributions on State property

§5-35. Contributions on State property. Contributions shall not be intentionally solicited, accepted, offered, or made on State property by public officials, by State employees, by candidates for elective office, by persons required to be registered under the Lobbyist Registration Act, or by any officers, employees, or agents of any political organization, except as provided in this Section. For purposes of this Section, "State property" means any building or portion thereof owned or exclusively leased by the State or any State agency at the time the contribution is solicited, offered, accepted, or made. "State property" does not however, include any portion of a building that is rented or leased from the State or any State agency by a private person or entity.

An inadvertent solicitation, acceptance, offer, or making of a contribution is not a violation of this Section so long as reasonable and timely action is taken to return the contribution to its source.

The provisions of this Section do not apply to the residences of State officers and employees, except that no fundraising events shall be held at residences owned by the State or paid for, in whole or in part, with State funds.

430/5-40. Fundraising in Sangamon County

§5-40. Fundraising in Sangamon County. Except as provided in this Section, any executive branch constitutional officer, any candidate for an executive branch constitutional office, any member of the General Assembly, any candidate for the General Assembly, any political caucus of the General Assembly, or any political committee on behalf of any of the foregoing may not hold a fundraising function in Sangamon County on any day the legislature is in session (i) during the period beginning February 1 and ending on the later of the actual adjournment dates of either house of the spring session and (ii) during fall veto session. For purposes of this Section, the legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting.

During the period beginning June 1 and ending on the first day of fall veto session each year, this Section does not apply to (i) a member of the General Assembly whose legislative or representative district is entirely within Sangamon County or (ii) a candidate for the General Assembly from that legislative or representative district.

430/5-45. Procurement; revolving door prohibition

§5-45. Procurement; revolving door prohibition.

(a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the decision to award State contracts with a cumulative value of over \$25,000 to the person or entity, or its parent or subsidiary.

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, made a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

(c) The requirements of this Section may be waived (i) for the executive branch, in writing by the Executive Ethics Commission, (ii) for the legislative branch, in writing by the Legislative Ethics Commission, and (iii) for the Auditor General, in writing by the Auditor General. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Executive Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Legislative Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. The waiver shall be granted upon a showing that the prospective employment or relationship did not affect the decisions referred to in sections (a) and (b).

(d) This Section applies only to persons who terminate an affected position on or after the effective date of this amendatory Act of the 93rd General Assembly.

430/5-50. Ex parte communication; special government agents

§5-50. Ex parte communications; special government agents.

(a) This Section applies to ex parte communications made to any agency listed in subsection (e).

(b) "Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency. "Ex. parte

communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency.

(b-5) An ex parte communication received by an agency, agency head, or other agency employee from an interested party or his or her official representative or attorney shall promptly be memorialized and made a part of the record.

(c) An ex parte communication received by any agency, agency head, or other agency employee, other than an ex parte communication described in subsection (b-5), shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication be promptly made a part of the record. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-judicatory, investment, or licensing matter.

(e) This Section applies to the following agencies:

Executive Ethics Commission	Illinois Commerce Commission
Educational Labor Relations Board	State Board of Elections
Illinois Gaming Board	Health Facilities Planning Board
Industrial Commission	Illinois Labor Relations Board
Illinois Liquor Control Commission	Pollution Control Board
Property Tax Appeal Board	Illinois Racing Board
Illinois Purchased Care Review Board Board	Department of State Police Merit
Merit Commission for the Secretary of State	Merit Commission for the Office of the Comptroller
Court of Claims	Illinois Board of Investment
Department of Insurance Trustees	Judges Retirement System Board of
Civil Service Commission	General Assembly Retirement System
State Employees Retirement System	Prisoner Review Board
Board of Trustees Motor Vehicle Review Board	
Teachers Retirement System Officers Board of Trustees	
Board of Review of the Department of Employment Security	
Department of Professional Regulation and licensing boards under the Department	
Department of Public Health and licensing boards under the Department	
Office of Banks and Real Estate and licensing boards under the Office	

(f) Any person who fails to (i) report an ex parte communication to an ethics officer; (ii) make information part of the record, or (iii) make a filing with the Executive Ethics Commission as required by this Section or as required by Section 5-165 of the Illinois Administrative Procedure Act violates this Act.

430/5-55. Prohibition on serving on boards and commissions.

§5-55. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, a person, his or her spouse, and any immediate family member living with that person is ineligible to serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if (i) that person is entitled to receive more than 7-1/2% of the total distributable income under a State contract other than an employment contract or (ii) that person together with his or her spouse and immediate family members living with that person are entitled to receive more than 15% in the aggregate of the total distributable income under a State contract other than an employment contract; except that this restriction does not apply to any of the following:

- (1) a person, his or her spouse, or his or her immediate family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and
- (2) a person, his or her spouse, or his or her immediate family member living with that person, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

430/10-10. Gift ban

§10-10. Gift ban. Except as otherwise provided in this Article, no officer, member, or State employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the officer, member, or State employee. No prohibited source shall intentionally offer or make a gift that violates this Section.

430/10-15. Gift ban; exceptions

§10-15. Gift ban; exceptions. The restriction in Section 10-10 does not apply to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer, member, or State employee pays the market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or under this Act or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(5) Travel expenses for a meeting to discuss State business. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer, or employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other members officers, or employees.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, member, or employee as an office holder or employee) of the officer, member, or employee, or the spouse of the officer, member, or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, member, or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to a member, officer, or employee of a State agency from another member, officer, or employee of the same State agency; and "inter-governmental gift" means any gift given to a member, officer, or employee of a State agency, by a member, officer, or employee of another State agency, of a federal agency, or of any governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of one another.

430/10-30. Gift ban; disposition of gifts

§10-30. Gift ban; disposition of gifts. A member, officer, or employee does not violate this Act if the member, officer, or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

430/10-40. Gift ban; further restrictions

§10-40. Gift ban; further restrictions. A State agency may adopt or maintain policies that are more restrictive than those set forth in this Article and may continue to follow any existing policies, statutes, or regulations that are more restrictive or are in addition to those set forth in this Article.

430/15-5. Definitions

§15-5. Definitions. In this Article:

"Public body" means (1) any officer, member, or State agency; (2) the federal government; (3) any local law enforcement agency or prosecutorial office; (4) any federal or State judiciary, grand or petit jury, law enforcement agency, or prosecutorial office; and (5) any officer, employee, department, agency, or other division of any of the foregoing.

"Supervisor" means an officer, a member, or a State employee who has the authority to direct and control the work performance of a State employee or who has authority to take corrective action regarding any violation of a law, rule, or regulation of which the State employee complains.

"Retaliatory action" means the reprimand, discharge, suspension, demotion, or denial of promotion or transfer of any State employee in the terms and conditions of employment, and that is taken in retaliation for a State employee's involvement in protected activity, as set forth in Section 15-10.

430/15-10. Protected activity

§15-10. Protected activity. An officer, a member, a State employee, or a State agency shall not take any retaliatory action against a State employee because the State employee does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.
- (3) Assists or participates in a proceeding to enforce the provisions of this Act.

430/15-20. Burden of Proof

§15-20. Burden of proof. A violation of this Article may be established only upon a finding that (i) the State employee engaged in conduct described in Section 15-10 and (ii) that conduct was a contributing factor in the retaliatory action alleged by the State employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the officer, member, other State employee, or State agency would have taken the same unfavorable personnel action in the absence of that conduct.

430/15-25. Remedies

§15-25. Remedies. The State employee may be awarded all remedies necessary to make the State employee whole and to prevent future violations of this Article. Remedies imposed by the court may include, but are not limited to, all of the following:

- (1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
- (2) 2 times the amount of back pay;
- (3) interest on the back pay;
- (4) the reinstatement of full fringe benefits and seniority rights; and
- (5) the payment of reasonable costs and attorneys' fees.

430/15-35. Preemption

§15-35. Preemption. Nothing in this Article shall be deemed to diminish the rights, privileges, or remedies of a State employee under any other federal or State law, rule, or regulation or under any collective bargaining agreement or employment contract.

430/15-40. Posting

§15-40. Posting. All officers, members, and State agencies shall conspicuously display notices of State employee protection under this Act.

430/20-5. Executive Ethics Commission

§20-5. Executive Ethics Commission

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker, and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization;
or
- (4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher.

The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

430/20-10. Offices of Executive Inspectors General

§20-10. Offices of Executive Inspectors General.

(a) Five independent Offices of the Executive Inspector General are created, one each for the Governor, the Attorney General, the Secretary of State, the Comptroller, and the Treasurer. Each Office shall be under the direction and supervision of an Executive Inspector General and shall be a fully independent office with separate appropriations.

(b) The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint an Executive Inspector General, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of Executive Inspector General, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of Executive Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate.

Nothing in this Article precludes the appointment by the Governor, Attorney General, Secretary of State, Comptroller, or Treasurer of any other inspector general required or permitted by law. The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer each may appoint an existing inspector general as the Executive Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Executive Inspector General required by this Article. An appointing authority may not appoint a relative as an Executive Inspector General.

Each Executive Inspector General shall have the following qualifications:

- (1) has not been convicted of any felony under the laws of this State, another State, or the United States;
- (2) has earned a baccalaureate degree from an institution of higher education; and
- (3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity. (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The term of each initial Executive Inspector General shall commence upon qualification and shall run through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial term, each Executive Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. An Executive Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the Executive Inspector General whose office is vacant. Terms shall run regardless of whether the position is filled.

(c) The Executive Inspector General appointed by the Attorney General shall have jurisdiction over the Attorney General and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Attorney General. The Executive Inspector General appointed by the Secretary of State shall have jurisdiction over the Secretary of State and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Secretary of State. The Executive Inspector General appointed by the Comptroller shall have jurisdiction over the Comptroller and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Comptroller. The Executive Inspector General appointed by the Treasurer shall have jurisdiction over the Treasurer and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Treasurer. The Executive Inspector General appointed by the Governor shall have jurisdiction over the Governor, the Lieutenant Governor, and all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The minimum compensation for each Executive Inspector General shall be determined by the Executive Ethics Commission. The actual compensation for each Executive Inspector General shall be determined by the appointing executive branch constitutional officer and must be at or above the minimum compensation level set by the Executive Ethics Commission. Subject to Section 20-45 of this Act, each Executive Inspector General has full authority to organize his or her Office of the Executive Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. A separate appropriation shall be made for each Office of Executive Inspector General.

(e) No Executive Inspector General or employee of the Office of the Executive Inspector General may, during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or
- (4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Executive Inspector General or employee of the Office of the Executive Inspector General may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Executive Ethics Commission.

(f) An Executive Inspector General may be removed only for cause and may be removed only by the appointing constitutional officer. At the time of the removal, the appointing constitutional officer must report to the Executive Ethics Commission the justification for the removal.

43-20-15. Duties of the Executive Ethics Commission

§20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

- (1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.
- (2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an

Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20- 21.

430/20-20. Duties of the Executive Inspectors General

§20-20. Duties of the Executive Inspectors General. In addition to duties otherwise assigned by law, each Executive Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. The Executive Inspector General may receive information through the Office of any Executive Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Executive Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Executive Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Executive Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 20-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Executive Inspector General with the Executive Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Executive Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Executive Inspector General deems appropriate, from ethics officers of the agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

430/20-21. Special Executive Inspectors General

§20-21. Special Executive Inspectors General.

(a) The Executive Ethics Commission, on its own initiative and by majority vote, may appoint special Executive Inspectors General (i) to investigate alleged violations of this Act if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 20-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning an Executive Inspector General or employee of an Office of an Executive Inspector General and to investigate those allegations.

(b) A special Executive Inspector General must have the same qualifications as an Executive Inspector General appointed under Section 20-10.

(c) The Commission's appointment of a special Executive Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Executive Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as an Executive Inspector General appointed under Section 20-10.

(e) A special Executive Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Executive Inspector General and its recommendations, if any, to the appointing authority of the appropriate Executive Inspector General.

430/20-23. Ethics Officers

§20-23. Ethics Officers. Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an Ethics Officer for the office or State agency. Ethics Officers shall:

- (1) act as liaisons between the State agency and the appropriate Executive Inspector General and between the State agency and the Executive Ethics Commission;
- (2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and
- (3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Executive Ethics Commission.

430/20-35. Administrative subpoena; compliance

§20-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

430/20-40. Collective bargaining agreements

§20-40. Collective bargaining agreements. Any investigation or inquiry by an Executive Inspector General or any agent or representative of an Executive Inspector General must be conducted with awareness of the provisions of a collective bargaining agreement that applies to the employees of the relevant State agency and with an awareness of the rights of the employees as set forth by State and federal law and applicable judicial decisions. Any recommendation for discipline or any action taken against any State employee pursuant to this Act must comply with the provisions of the collective bargaining agreement that applies to the State employee.

430/20-45. Standing; representation

§20-45. Standing; representation.

(a) Only an Executive Inspector General may bring actions before the Executive Ethics Commission.

(b) The Attorney General shall represent an Executive Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Executive Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the appropriate Office of the Executive Inspector General.

430/20-50. Investigation reports; complaint procedure

§20-50. Investigation reports; complaint procedure.

(a) If an Executive Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

- (1) A description of any allegations or other information received by the Executive Inspector General pertinent to the investigation.
- (2) A description of any alleged misconduct discovered in the course of the investigation.
- (3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.
- (4) Other information the Executive Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Executive Inspector General desires to file a petition for leave to file a complaint, the Executive Inspector General shall notify the Commission and the Attorney General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General, represented by the Attorney General, may file with the Executive Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Executive Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Executive Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(1) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

430/20-55. Decisions; recommendations

§20-55. Decisions; recommendations.

(a) All decisions of the Executive Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the appropriate Executive Inspector General. The Executive Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Executive Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Executive Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Executive Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Executive Ethics Commission and the appropriate Executive Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

430/20-60. Appeals

§20-60. Appeals. A decision of the Executive Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Executive Ethics Commission are final and not subject to review either administratively or judicially.

430/20-65. Investigations not concluded within 6 months

§20-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the appropriate Executive Inspector General shall notify the Executive Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

430/20-70. Cooperation in investigations

§20-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General including any inspector general serving in any State agency under the jurisdiction of that Executive Inspector General, to cooperate with the Executive Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Executive Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

430/20-80. Referrals of investigations

§20-80. Referrals of investigations. If an Executive Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Executive Ethics Commission, that Executive Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission, or other appropriate body. If an Executive Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Executive Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

430/20-85. Quarterly reports by Executive Inspector General

§20-85. Quarterly reports by Executive Inspector General. Each Executive Inspector General shall submit quarterly reports to the appropriate executive branch constitutional officer and the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last response;
- (3) the number of investigations concluded since the date of the last response;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of complaints forwarded to the Attorney General since the date of the last report; and

(6) the number of actions filed with the Executive Ethics Commission since the date of the last report and the number of actions pending before the Executive Ethics Commission as of the reporting date.

430/20-86. Quarterly reports by the Attorney General

§20-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of complaints received from each of the Executive Inspectors General since the date of the last report;
- (2) the number of complaints for which the Attorney General had determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and
- (3) the number of complaints still under review by the Attorney General.

430/20-90. Confidentiality

§20-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 20-50(c), commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

430/20-95. Exemptions

§20-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5- 50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of

this Act. If the Executive Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 20-5 and 20-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission; or (iv) to another Inspector General appointed pursuant to this Act.

430/25-5. Legislative Ethics Commission

§25-5. Legislative Ethics Commission.

(a) The Legislative Ethics Commission is created.

(b) The Legislative Ethics Commission shall consist of 8 commissioners appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

The terms of the initial commissioners shall commence upon qualification. Each appointing authority shall designate one appointee who shall serve for a 2-year term running through June 30, 2005. Each appointing authority shall designate one appointee who shall serve for a 4-year term running through June 30, 2007. The initial appointments shall be made within 60 days after the effective date of this Act. After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms. Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant. Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and may appoint commissioners who are members of the General Assembly as well as commissioners from the general public. A commissioner who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is a relative of the appointing authority, or (iv) is a

State officer or employee other than a member of the General Assembly.

(d) The Legislative Ethics Commission shall have jurisdiction over members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Legislative Ethics Commission must meet, either in person or by other technological means, monthly or as often as necessary. At the first meeting of the Legislative Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive no compensation but may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner, other than a commissioner who is a member of the General Assembly, or employee of the Legislative Ethics Commission may during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or
- (4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Legislative Ethics Commission shall appoint an Executive Director subject to the approval of at least 3 of the 4 legislative leaders. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Legislative Ethics Commission may employ, subject to the approval of at least 3 of the 4 legislative leaders, and determine the compensation of staff, as appropriations permit.

430/25-10. Office of Legislative Inspector General

§25-10. Office of Legislative Inspector General.

(a) The independent Office of the Legislative Inspector General is created. The Office shall be under the direction and supervision of the Legislative Inspector

General and shall be a fully independent office with its own appropriation.

(b) The Legislative Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability. The Legislative Ethics Commission shall diligently search out qualified candidates for Legislative Inspector General and shall make recommendations to the General Assembly.

The Legislative Inspector General shall be appointed by a joint resolution of the Senate and the House of Representatives, which may specify the date on which the appointment takes effect. A joint resolution, or other document as may be specified by the Joint Rules of the General Assembly, appointing the Legislative Inspector General must be certified by the Speaker of the House of Representatives and the President of the Senate as having been adopted by the affirmative vote of three-fifths of the members elected to each house, respectively, and be filed with the Secretary of State. The appointment of the Legislative Inspector General takes effect on the day the appointment is completed by the General Assembly, unless the appointment specifies a later date on which it is to become effective.

The Legislative Inspector General shall have the following qualifications:

- (1) has not been convicted of any felony under the laws of this State, another state, or the United States;
- (2) has earned a baccalaureate degree from an institution of higher education; and
- (3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The Legislative Inspector General may not be a relative of a commissioner.

The term of the initial Legislative Inspector General shall commence upon qualification and shall run through June 30, 2008.

After the initial term, the Legislative Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. The Legislative Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled in the same manner as an appointment only for the balance of the term of the Legislative Inspector General whose office is vacant. Terms shall run regardless of whether the position is filled.

(c) The Legislative Inspector General shall have jurisdiction over the members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i)

a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services.

The jurisdiction of each Legislative Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The compensation of the Legislative Inspector General shall be the greater of an amount (i) determined by the Commission or (ii) by joint resolution of the General Assembly passed by a majority of members elected in each chamber. Subject to Section 25-45 of this Act, the Legislative Inspector General has full authority to organize the Office of the Legislative Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. Employment of staff is subject to the approval of at least 3 of the 4 legislative leaders.

(e) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or
- (4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (3) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Legislative Ethics Commission.

(f) The Commission may remove the Legislative Inspector General only for cause. At the time of the removal, the Commission must report to the General Assembly the justification for the removal.

430/25-15. Duties of the Legislative Ethics Commission

§25-15. Duties of the Legislative Ethics Commission. In addition to duties otherwise assigned by law, the Legislative Ethics Commission shall have the following duties:

- (1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Legislative Inspector General.
- (2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by the Legislative Inspector General and not upon its own prerogative, but may appoint special Legislative Inspectors General as provided in Section 25-21. Any other allegations of misconduct received by the Commission from a person other than the Legislative Inspector General shall be referred to the Office of the Legislative Inspector General.
- (3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.
- (4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.
- (5) To submit reports as required by this Act.
- (6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.
- (7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.
- (8) To appoint special Legislative Inspectors General as provided in Section 25-21.

430/25-20. Duties of the Legislative Inspector General

§25-20. Duties of the Legislative Inspector General. In addition to duties otherwise assigned by law, the Legislative Inspector General shall have the following duties:

- (1) To receive and investigate allegations of violations of this Act. The Legislative Inspector General may receive information through the Office of the Legislative Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Legislative Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated

more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Legislative Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Legislative Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas, with the advance approval of the Commission, to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 25-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Legislative Inspector General with the Legislative Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General deems that reasonable cause exists to believe that a violation has occurred.,

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Legislative Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Legislative Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction. reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

430/25-21. Special Legislative Inspectors General

§25-21. Special Legislative Inspectors General.

(a) The Legislative Ethics Commission, on its own initiative and by majority vote, may appoint special Legislative Inspectors General (i) to investigate alleged violations of this Act, if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 25-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning the Legislative Inspector General or an employee of the Office of the Legislative Inspector General and to investigate those allegations.

(b) A special Legislative' Inspector General must have the same qualifications as the Legislative Inspector General appointed under Section 25-10.

(c) The Commission's appointment of a special Legislative Inspector General must be made in writing and must specify the duration and purpose of the appointment.

(d) A special Legislative Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as the Legislative Inspector General appointed under Section 25-10.

(e) A special Legislative Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Legislative Inspector General and its recommendations, if any, to the General Assembly.

430/25-23. Ethics Officers

§25-23. Ethics Officers. The President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint an ethics officer for the members and employees of his or her legislative caucus. No later than January 1, 2004, the head of each State agency under the jurisdiction of the Legislative Ethics Commission, other than the General Assembly, shall designate an ethics officer for the State agency. Ethics Officers shall:

- (1) act as liaisons between the State agency and the Legislative Inspector General and between the State agency and the Legislative Ethics Commission;
- (2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and
- (3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Legislative Ethics Commission.

430/25-35. Administrative subpoena; compliance

§25-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

430/25-45. Standing; representation

§25-45. Standing; representation.

(a) Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission.

(b) The Attorney General shall represent the Legislative Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Legislative Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the Office of the Legislative Inspector General.

430/25-50. Investigation reports; complaint procedure

§25-50. Investigation reports; complaint procedure.

(a) If the Legislative Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

(1) A description of any allegations or other information received by the Legislative Inspector General pertinent to the investigation.

(2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Legislative Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Legislative Inspector General desires to file a petition for leave to file a complaint, the Legislative Inspector General shall notify the Commission and the Attorney General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General, represented by the Attorney General, may file with the Legislative Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Legislative Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Legislative Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

430/25-55. Decisions; recommendations

§25-55. Decisions; recommendations.

(a) All decisions of the Legislative Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the Legislative Inspector General. The Legislative Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Legislative Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Legislative Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Legislative Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response.

This response must be served upon the Legislative Ethics Commission and the Legislative Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

430/25-60. Appeals

§25-60. Appeals. A decision of the Legislative Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Legislative Ethics Commission are final and not subject to review either administratively or judicially.

430/25-65. Investigations not concluded within 6 months

§25-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the Legislative Inspector General shall notify the Legislative Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

430/25-70. Cooperation in investigations

§25-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of the Legislative Inspector General, including any inspector general serving in any State agency under the jurisdiction of the Legislative Inspector General, to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Legislative Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or privileges under State or federal law.

430/25-80. Referrals of investigations

§25-80. Referrals of investigations. If the Legislative Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Legislative Ethics Commission, the Legislative Inspector General shall refer the reported allegations to the appropriate ethics commission or other appropriate body. If the Legislative Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Legislative Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

430/25-85. Quarterly reports by the Legislative Inspector General

§25-85. Quarterly reports by the Legislative Inspector General. The Legislative Inspector General shall submit quarterly reports to the General Assembly and the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;

(4) the number of investigations pending as of the reporting date;

(5) the number of complaints forwarded to the Attorney General since the date of the last report; and

(6) the number of actions filed with the Legislative Ethics Commission since the date of the last report and the number of actions pending before the Legislative Ethics Commission as of the reporting date.

430/25-86. Quarterly reports by the Attorney General

§25-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

(1) the number of complaints received from the Legislative Inspector General since the date of the last report;

(2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and

(3) the number of complaints still under review by the Attorney General.

430/25-90. Confidentiality

§25-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to the Legislative Inspector General or the Legislative Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 25-50(c), commissioners, employees, and agents of the Legislative Ethics Commission, the Legislative Inspector General, and employees and agents of the Office of the Legislative Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

430/25-95. Exemptions

§25-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(a-5) Requests from ethics officers, members, and State employees to the Office

of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader for guidance on matters involving the interpretation or application of this Act or rules promulgated under this Act are exempt from the provisions of the Freedom of Information Act. Guidance provided to an ethics officer, member, or State employee at the request of an ethics officer, member, or State employee by the Office of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader on matters involving the interpretation or application of this Act or rules promulgated under this Act is exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to the Legislative Inspector General and any pleadings and related documents brought before the Legislative Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Legislative Ethics Commission does not make a finding of a violation of this Act. If the Legislative Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 25-5 and 25-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of the Legislative Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, or (iii) to the Legislative Ethics Commission.

430/30-5. Appointment of Inspector General

§30-5. Appointment of Inspector General.

(a) The Auditor General shall appoint an Inspector General (i) to investigate allegations of violations of Articles 5 and 10 by State officers and employees under his or her jurisdiction and (ii) to perform other duties and exercise other powers assigned to the Inspectors General by this or any other Act. The Inspector General shall be appointed within 6 months after the effective date of this Act.

(b) The Auditor General shall provide by rule for the operation of his or her Inspector General. It is declared to be in the public interest, safety, and welfare that the Auditor General adopt emergency rules under the Illinois Administrative Procedure Act to initially perform his or her duties under this subsection.

(c) The Auditor General may appoint an existing inspector general as the Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Inspector General required by this Article.

The Auditor General may not appoint a relative as the Inspector General required by this Article.

430/30-10. Ethics Officer

§30-10. Ethics Officer. The Auditor General shall designate an Ethics Officer for the office of the Auditor General. The ethics officer shall:

- (1) act as liaison between the Office of the Auditor General and the Inspector General appointed under this Article;
- (2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and
- (3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, whenever possible, upon legal precedent in court decisions and opinions of the Attorney General.

430/35-5. Appointment of Inspectors General

§35-5. Appointment of Inspectors General. Nothing in this Act precludes the appointment by the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer of any inspector general required or permitted by law. Nothing in this Act precludes the Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer from appointing an existing inspector general under his or her jurisdiction to serve simultaneously as an Executive Inspector General. This Act shall be read consistently with all existing State statutes that create inspectors general under the jurisdiction of an executive branch constitutional officer.

430/50-5. Penalties

§50-5. Penalties.

- (a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.
- (b) A person who intentionally violates any provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business offense subject to a fine of at least \$1,001 and up to \$5,000.
- (c) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least \$1,001 and up to \$5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provisions of this Act to an ethics commission, an inspector general, the State Police, a State's Attorney the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(e) An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation.

(f) In addition to any other penalty that may apply, whether criminal or civil a State employee who intentionally violates any provision of Section 5-15, 5- 20, 5-30, 5-35, 5-40, or 5-50, Article 10. Article 15, or Section 20-90 or 25- 90 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

430/170-5. Adoption by governmental entities

§70-5. Adoption by governmental entities.

(a) Within 6 months after the effective date of this Act, each governmental entity shall adopt an ordinance or resolution that regulates, in a manner no less restrictive than Section 5-15 and Article 10 of this Act, (i) the political activities of officers and employees of the governmental entity and (ii) the soliciting and accepting of gifts by and the offering and making of gifts to officers and employees of the governmental entity.

(b) Within 3 months after the effective date of this amendatory Act of the 93rd General Assembly, the Attorney General shall develop model ordinances and resolutions for the purpose of this Article. The Attorney General shall advise governmental entities on their contents and adoption.

(c) As used in this Article, (i) an "officer" means an elected or appointed official; regardless of whether the official is compensated, and (ii) an "employee" means a full-time, part-time, or contractual employee.

430/70-10. Penalties

§70-10. Penalties. A governmental entity may provide in the ordinance or resolution required by this Article for penalties similar to those provided in this Act for similar conduct.

430/70-15. Home rule preemption

§70-15. Home rule preemption. This Article is a denial and limitation of home rule powers and functions in accordance with subsection (i) of Section 6 of Article VII of the Illinois Constitution. A home rule unit may not regulate the political activities of its officers and employees and the soliciting, offering, accepting, and making of gifts in a manner less restrictive than the provisions of Section 70-5.

430/99-5. Severability

§99-5. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

430/99-99. Effective date

§99-99. Effective date. This Act takes effect upon becoming law.

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ARTICLE 50

PROCUREMENT ETHICS AND DISCLOSURE

(30 ILCS 500/50-13)

Sec. 50-13. Conflicts of interest.

(a) Prohibition. It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

(b) Interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c-5) Appointees and firms. In addition to any provisions of this Code, the interests of certain appointees and their firms are subject to Section 3A-35 of the Illinois Governmental Ethics Act.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child, or other immediate family member living in his or her residence or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 calendar days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

- (1) Public aid payments. This Section does not apply to payments made for a public aid recipient.
- (2) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, or Northeastern Illinois University.

- (3) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly.
- (4) Child and family services. This Section does not apply to payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.
- (5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Healthcare and Family Services, the Department of Public Health, or the Department on Aging.

(g) Penalty. A person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than \$1,000 nor more than \$5,000.

(30 ILCS 500/50-20)

Sec. 50-20. Exemptions. The appropriate chief procurement officer may file a request with the Executive Ethics Commission to exempt named individuals from the prohibitions of Section 50-13 when, in his or her judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. The Executive Ethics Commission may grant an exemption after a public hearing at which any person may present testimony. The chief procurement officer shall publish notice of the date, time, and location of the hearing in the online electronic Bulletin at least 14 calendar days prior to the hearing and provide notice to the individual subject to the waiver and the Procurement Policy Board. The Executive Ethics Commission shall also provide public notice of the date, time, and location of the hearing on its website. If the Commission grants an exemption, the exemption is effective only if it is filed with the Secretary of State and the Comptroller prior to the execution of any contract and includes a statement setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the Illinois Procurement Bulletin. A contract for which a waiver has been issued but has not been filed in accordance with this Section is voidable by the State. The changes to this Section made by this amendatory Act of the 96th General Assembly shall apply to exemptions granted on or after its effective date.

Date: September 2016

To All Employees:

Welcome to the Tollway.

We believe that each employee contributes directly to the Tollway's growth and success. We hope you will take pride in being a member of our team, and that your experience here will be challenging, enjoyable, and rewarding.

The Tollway maintains an "at will" employment relationship with all employees except for employees covered by a collective bargaining agreement. Nothing contained in these Personnel Policies is intended to be or should be construed to create an enforceable employment contract between the Tollway and any employee or applicant.

These Personnel Policies were developed to describe the expectations we have of our employees, and to outline the policies, programs, and benefits available to employees. These Personnel Policies provide important information for all employees, and should be read and acknowledged by all employees. As needed, policies may be revised and substituted in this manual and you are expected to update your copy of the Manual as well. The Tollway will maintain a copy of this Manual on Crossroads. For questions not answered here, please speak with your supervisor or someone in the Administration Department.

The Board has adopted these Personnel Policies by Resolution, and Executive Management is responsible for ensuring these policies are followed.

Let us continue to work together to provide and promote a safe and efficient system of highways, high level of service to our customers, and an enjoyable place to work.

Sincerely,

The Tollway Board and Executive Staff

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Chapter 1. GENERAL POLICIES AND RESPONSIBILITIES

Section A. Fundamental Principles

The principles set forth in this Policy Manual have been established as a guideline for daily personnel administration. This Policy Manual supersedes all previous Tollway personnel policy and procedure manuals and may be amended or rescinded at any time by the Board of Directors with or without notice to employees. The Executive Director may waive or authorize a variance or approve a modification of particular provisions of this manual in his or her discretion that are in the best interests of the Tollway.

The Tollway expects employees to follow the policies outlined in this manual, including rules of conduct that will protect the interests and safety of both the employees and the organization. Recognizing that infractions may occur, the Tollway will implement appropriate discipline which may also be referred to as discipline or disciplinary action.

1. **Tollway employees are not civil service employees 20 ILCS 415/4c(13) or subject to the Illinois Personnel Code 605 ILCS 10/8(c). Nothing contained in this Policy Manual is intended or may be construed to create enforceable contractual rights between the Tollway and any of its employees or applicants for employment. Except for employees covered by a collective bargaining agreement, the Tollway maintains an “at will” employment relationship with all employees. This statement is declarative of existing Tollway policy and not a change from past policy or practices.**
2. For non CBA employees who are “at will” pursuant to section 8(c) of the Toll Highway Act, the Tollway may use progressive action steps in an effort to maintain compliance with established rules of conduct and to correct improper behavior. Particularly serious or aggravated infractions may warrant departure from progressive discipline steps and, in some cases, immediate discharge.

3. The Tollway requires public trust and confidence in its employees. Integrity is essential. Employees must act according to the highest ethical principles and standards, in accordance with the Tollway's Code of Ethics, the State of Illinois Code of Personal Conduct, and all applicable local, state and federal laws imposing standards of ethical behavior. Employees should avoid all situations that could give the appearance of conflict of interest or impropriety. Violations will be grounds for discipline up to and including discharge. Employees of the Tollway shall act in the Tollway's best interest and not act for their personal benefit or for any other private interest that conflict with the public's trust. Each Tollway employee is required to be familiar with the Tollway's Code of Ethics (Attachment 1) and must comply with all applicable federal, state and local laws.
4. No employee is authorized to enter into any agreement or contract of employment on behalf of the Tollway unless expressly authorized to do so.
5. To the extent any provision of this Policy Manual conflicts with a provision of a collective bargaining agreement approved by the Tollway, the latter will prevail. Likewise, any applicable law shall prevail if it conflicts with any provision of this Policy Manual or collective bargaining agreement.
6. The Tollway will make employment decisions without regard to race, color, religion, marital status, national origin or ancestry, disability, unfavorable discharge from military service, age, order of protection status, military status, sex, sexual orientation, pregnancy, arrest record, citizenship status or political affiliation, except as allowed by law.
7. The Tollway will not tolerate the harassment, intimidation or bullying of any employee at work or through social media outlets for reasons that include but are not limited to: race, color, religion, marital status, national origin or ancestry, disability, unfavorable discharge from military service, age, order of protection status, military status, sex, sexual orientation, pregnancy, arrest record, citizenship status or political affiliation.
8. Insofar as is practicable, the Tollway will strive to provide employees with opportunities for training and experience that will enhance their career development.
9. The Tollway is committed to providing a safe and wholesome work environment.

10. The Tollway will take reasonable steps to protect the privacy of its employees. Employees are prohibited from publishing, disseminating and/or displaying information of a sensitive or disparaging nature for the purpose of offending or embarrassing another employee at work or through social media outlets. The use of social media outlets to discuss wages, work conditions or protected concerted work activity may be appropriate and lawful; however, disclosure of certain information may be prohibited by confidentiality or other legal protections.
11. The Tollway strives to provide each employee with a fair and constructive evaluation of his or her job performance annually. Supervisors should make themselves regularly available to answer questions and provide guidance on job performance issues.
12. Employees are encouraged to offer constructive suggestions to their supervisors concerning improved work methods and means of increasing efficiency and productivity.

Section B. Allocation of Personnel Responsibilities

The BOARD OF DIRECTORS reviews and approves the Tollway's Personnel Policies.

The EXECUTIVE DIRECTOR has the responsibility of interpreting and fairly applying the Policy Manual to achieve the goals and objectives of the Tollway. In his/her reasonable discretion, the Executive Director may waive or authorize a variance from the Tollway's Policy Manual in order to further the best interests of the Tollway.

DEPARTMENT OFFICERS/CHIEFS are responsible for overseeing the operations of one or more of the departments of the Tollway.

The ADMINISTRATION DEPARTMENT has primary responsibility for implementing this Policy Manual and is generally responsible for assisting with employee services, customer relations, labor relations, human resources, and employee benefits.

The EQUAL EMPLOYMENT OFFICER is responsible for monitoring and implementing the Tollway's EEO/Affirmative Action Programs, investigating charges of discrimination or harassment and preparing reports in accordance with relevant laws or rules.

The ETHICS OFFICER is responsible for serving as a liaison between the Tollway and the Office of the Executive Inspector General and between the Tollway and the Executive Ethics Commission, reviewing statements of economic interest and disclosure forms of employees and board members before they are filed with the Secretary of State, providing guidance to employees in the interpretation and implementation of ethics laws and guidelines, coordinating the Tollway's ethics training, guiding departing employees through the revolving door process, and providing additional assistance as provided by law.

Section C. Definitions

As used in this Policy Manual, the following terms have the meanings prescribed below:

1. "ADA" refers to the Americans with Disabilities Act.
2. "ADEA" refers to Age Discrimination in Employment Act.
3. "Board of Directors" or "Directors" refers to the Tollway directors appointed pursuant to 605 ILCS 10/3.
4. "CA" refers to the Tollway's Central Administration building in Downers Grove, IL.
5. "CDL" refers to a Commercial Driver's License.
6. "Criminal Background Review" refers to the process by which an employee, applicant or vendor may respond verbally or in writing to information disclosed in their criminal background that was reported to the Tollway through the fingerprinting process.
7. "Department Officer" refers to an individual reporting to the Executive Director with responsibility for the management of one or more departments.
8. "Department Chief" refers to an individual reporting to an Officer with responsibility for the management of a Department.
9. "EAP" refers to the Tollway's Employee Assistance Program.
10. "Employee" refers to individuals working for the Tollway on a full-time, part-time, seasonal, 75 day, co-op or intern basis.

11. "Equal Employment Officer (EEO Officer)" refers to the individual responsible for monitoring and implementing the Tollway's EEO/Affirmative Action Programs, investigating charges of discrimination or harassment and preparing reports in accordance with relevant laws or rules.
12. "EEOC" refers to the Equal Employment Opportunity Commission.
13. "Ethics Officer" refers to the individual appointed by the Executive Director to serve as the Tollway's Ethics Officer with written notification to the OEIG and the EEC.
14. "Executive Director" refers to the Executive Director of the Tollway.
15. "FLSA" refers to Fair Labor Standards Act, as amended from time to time.
16. "FMLA" refers to Family Medical Leave Act, as amended from time to time.
17. "FSA" refers to Flexible Spending Account.
18. "HIPAA" refers to the Health Insurance Portability and Accountability Act.
19. "IDHR" refers to the Illinois Department of Human Rights.
20. "OIG" refers to the Tollway's Office of the Inspector General, who is empowered to identify and investigate waste, inefficiencies, fraud, corruption, misconduct and mismanagement in the operations of the Tollway.
21. "LOS" or "CS" refers to an employee's total length of uninterrupted service or continuous service beginning with his or her initial date of appointment into a permanent position. This includes the period of any prior State agency service covered under SERS, approved disability, or military leave of absence, but excludes periods of layoff, suspension or other unpaid leaves of absence. This is used to calculate seniority for purposes of retirement and vacation accrual.
22. "Manager" refers to a salaried individual with authority to impose most, if not all, levels of discipline and is responsible for oversight of staff, and includes Department Chiefs, Division Managers, and Managers.

23. "PO" refers to the Privacy Officer, who is responsible for ensuring compliance with HIPAA. The Tollway's privacy officer is the Employee Benefits Manager or designee.
24. "SERS" refers to the State Employee Retirement System.
25. "Supervisor", unless the context otherwise indicates, refers to the immediate supervisor of the employee. This individual does not necessarily have the authority to make employment decisions or impose most levels of discipline. Generally, this is a salaried individual who is not a member of a collective bargaining unit and is responsible for overseeing the work performance of another employee.
26. "Tollway" refers to The Illinois State Toll Highway Authority created by 605 ILCS 10/1 et seq.
27. "VESSA" refers to the Victims Economic Security and Safety Act.
28. References to job titles or positions shall include designees and those serving in an "acting" capacity.



Chapter 2. RECRUITMENT AND RETENTION OF EMPLOYEES

Section A. General Policy

The Tollway's goal is to attract and retain competent personnel. The Tollway seeks to place employees in positions that best suit their aptitude, abilities, and skills, and to encourage employees to qualify for advancement through training and strong job performance.

The Tollway prohibits all types of discrimination against any individual with regard to recruitment, examination, appointment, training, promotion, retention, or any other employment action because of race, color, religion, marital status, national origin, ancestry, disability, unfavorable discharge from military service, age, order of protection status, military status, sex, sexual orientation, pregnancy, arrest record, citizenship status or political affiliation.

The Tollway adheres to the U.S. Supreme Court's ruling in Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and does not consider political affiliation or support when making an employment decision for types of positions that are contemplated by this decision.

Section B. Recruitment of Employees

Employee Services Division

The Employee Services Division has the primary responsibility for implementing and coordinating the Tollway's recruitment and placement activities. The hiring department is responsible to notify the Employee Services Division of vacancies and ensure the accuracy of the job description. The Tollway's on-line application process allows the Tollway to automatically screen applicants, notify applicants where they are in the application process, schedule applicants for testing and interviewing, and

identify eligible candidates. Postings for positions covered by a collective bargaining agreement will be consistent with contract provisions. Employment inquiries should be directed to the Employee Services Division.

Position Qualifications

To be considered for employment at the Tollway, a person must meet the qualifications of the position. Qualifications vary in accordance with each position. The hiring process encompasses the following steps and considers the following information.

1. Employment Application

- a. Persons applying for a position with the Tollway are encouraged to use the Tollway's on-line application process which can be located on the Tollway's website: www.illinoistollway.com. If necessary, a timely submitted paper application will be considered.
- b. The employment application becomes a part of the employee's personnel file. All information submitted on the application form is subject to verification.
- c. Information gained by checking references is confidential and shall be treated as such.
- d. The Tollway reserves the right to rescind a conditional offer of employment to a candidate, or discipline, including discharge, an employee upon learning that the employee falsified material facts on his or her employment application or upon discovery of information which, if known at the time an offer of employment was extended, would have rendered the individual unacceptable for the position.
- e. A candidate to whom a conditional offer of employment is extended will be subject to a criminal background check and the provisions contained in Section H below. Any conviction history discovered in that process will cause the Tollway to conduct an individualized assessment with the candidate before a final employment decision is made. The individualized assessment includes an opportunity for the candidate to provide documents and information in support of their candidacy.

2. Age Requirement

The Tollway does not employ persons less than sixteen (16) years of age. The Tollway may employ persons between sixteen (16) and eighteen (18) years of age, depending on the need for such employees.

3. Citizenship Requirements

United States citizenship or proof of authorization to legally work in the United States is a requirement for employment with the Tollway. The Tollway will not sponsor any job applicant for permanent residency or citizenship.

4. Immigration Reform and Control Act of 1986

In accordance with the Immigration Reform and Control Act of 1986, all applicants are required to complete an Employment Eligibility Verification Form (I-9). The appropriate documentation must be submitted by all candidates for employment prior to the date of work commencement.

5. Veterans Preference

Reasonable preferences will be given in the employee selection process to candidates qualifying for a position who are or were members of the U.S. Armed Forces and/or Reserve Units, including but not limited to selecting such candidates over candidates lacking military experience when all other factors in the employment evaluation process are equal. Proof of discharge papers may be requested if an offer is extended. An unfavorable discharge may result in additional inquiry or bar to employment pursuant to law (775 ILCS 5/2-104(A)(3)).

Section C. Employment of Relatives

The Tollway considers it a conflict of interest for an employee to be within the reporting chain of anyone whose relationship is that of spouse, fiancé, parent, legal guardian, child, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, step-relative, civil union partner, or any other person whose association with the employee is similar to any of these relationships. An applicant will not receive a preference for employment merely because s/he is the relative or civil union partner of a Tollway employee. In order to avoid such conflicts of interest, the relative, step-relative, or civil union partner of an incumbent employee will not be assigned to serve under the direct supervision of his or her relative, step-relative, or

civil union partner. The Ethics Officer should be consulted in all work-related issues involving relatives. If through marriage an employee finds themselves in the reporting chain to someone identified above, the employee's reporting structure and status will be re-evaluated. Notice of change of family relationships should be provided to the Chief of Administration.

The Tollway's Code of Ethics requires that current employees must avoid all situations that could give the appearance of a conflict of interest or impropriety. Accordingly, employees are prohibited from supervising a Tollway vendor which employs a spouse, child, parent, brother, sister, grandparent, or grandchild, whether of the whole blood or half blood or by adoption, who shares a common dwelling with the employee. If an employee is uncertain whether they have a supervisory responsibility over a vendor, the employee should contact the Tollway's Ethics Officer to make that determination. All employees must disclose to the Ethics Officer any such relative who is currently employed by a Tollway vendor or any job offer made to such a relative by a Tollway vendor, even if the employee does not have supervisory responsibility over the vendor.

Section D. Employment Reference Checks

To ensure that individuals who join the Tollway are well qualified and have a strong potential to be productive and successful employees, it is the policy of the Tollway to verify the employment and personal references of any candidate extended a conditional offer of employment or any other applicants.

As an employer, the Tollway receives requests for employment data about current or past employees from organizations such as lending or educational institutions or prospective employers. Requests for employment data must be in writing. Unless otherwise required by law, employment data will not be released without the written authorization and signed release from the individual who is the subject of the inquiry. Once authorized, any response from the Tollway to such inquiries will be in writing and limited to verifying salary, title/job classification, and length of service with the Tollway. Employees who receive requests for employment data about current or past employees, either orally or in writing, must refer the inquiry to the Administration Department.

Section E. Selection/Orientation

The Department of Administration coordinates and oversees the interview process. The Executive Director has sole final authority for the appointment of personnel.

The majority of positions at the Tollway are filled in accordance with the Rutan process and provisions of the appropriate collective bargaining agreement. Upon completion of the interview process, the Administration Department will notify the successful candidate of a conditional employment offer. Prompt and effective orientation of all new employees is vital to creating a sound employment relationship. The orientation process consists of:

1. ensuring appropriate documentation to confirm credentials for the position are received (i.e., driver's license, degree, certification, etc.)
2. ensuring new employees complete the necessary personnel forms and receive initial personnel orientation packages;
3. overseeing completion of general Tollway training (i.e., ethics, EEO, etc.);
4. obtaining authorization and fingerprints for the criminal background check which is a requirement for all positions;
5. obtaining authorization for an extensive background check, including credit history, which is a requirement for certain positions;
6. scheduling and ensuring drug testing and physical are completed;
7. ensuring hiring and benefit forms are completed.

Hiring department managers or supervisors are responsible for specific job related orientation, training and development of new employees. Those individuals have no authority to extend an offer of employment or make a contractual commitment as to terms of employment, and shall refrain from any action which might be interpreted as having such effect.

Section F. Pre-Employment Drug Test

Prospective employees will be instructed that their employment is contingent upon passing a pre-employment drug test. Appointments will be made with a doctor or clinic selected by the Tollway.

Section G. Pre-Employment Physical Examinations

Certain Tollway positions require a pre-employment physical screening to ensure the physical ability to perform the essential functions of the position. These positions include, but are not limited to:

- Auto Attendant
- Coin Counters
- Custodians
- Equipment Operator/Laborers
- Mechanics
- Messengers
- Money Truck Drivers
- Roadway Electricians
- Toll Collectors
- Warehouse Workers
- Sign Shop

There are certain types of work for which applicants must satisfy even higher physical fitness standards. These positions require arduous physical labor, continuous lifting and the operation of mobile equipment. Any person interested in being hired or transferred into these positions must satisfactorily perform the pre-employment physical.

Section H. Criminal Background Policy

Criminal Background Policy

All Tollway employees, contract employees or consultants are required to undergo a criminal background search before employment commences or an access badge is issued. A criminal conviction is not an automatic prohibition to employment with or at the Tollway. If a contract employee or consultant undergoes a criminal background search by his or her employer, the Tollway may waive the requirement for those individuals to undergo a criminal background search by the Illinois State Police.

Pursuant to the Illinois Uniform Conviction Information Act the Tollway must provide the individual named in the request to Illinois State Police with a copy of the response furnished by the Illinois State Police. The individual will have an opportunity to verify the accuracy and completeness of the information within seven (7) working days after receiving a copy of the information furnished by the Illinois State Police. Additionally, the Tollway will conduct an individualized assessment which may consist of an in-person interview or review of the written response provided by the employee or candidate.

1. New Employees

After a conditional employment offer has been extended, a criminal background check will be conducted by the Illinois State Police of both the Illinois and Federal Bureau of Investigation data bases. Generally, commencement of employment is conditioned upon receipt of a satisfactory result from the criminal background check. In the event an individual is hired prior to the completion of the criminal background check, the Tollway reserves the right to terminate the employment relationship upon the disclosure of a criminal background and completion of the individualized assessment which would otherwise have precluded an employment offer being extended. Any individual who refuses to authorize such a background check will not be considered for employment.

2. Current Employees

The Tollway may receive notification through an ongoing system of fingerprint identification when an arrest and/or conviction of an employee occurs. In addition, employees are obligated to follow the reporting procedures outlined in Chapter VII regarding arrest, indictment, or conviction. If during the course of employment an employee is convicted of a crime, other than a municipal ordinance, the employee will be subject to an individualized assessment to determine the continued suitability of employment for the position, and/or at the Tollway.

3. Criminal Background Review Committee

The purpose of the Criminal Background Review Committee is to conduct an individualized assessment of any candidate or employee with a criminal conviction record. The Committee is generally comprised of three (3) Tollway employees: one (1) from Legal, one (1) from Administration and one (1) from the using department, chosen by the Chief of that department. Exceptions may be made based on the needs of the Tollway. During the individualized assessment, employees or candidates who have criminal conviction records disclosed through the fingerprinting process or who self-identify criminal convictions are entitled to submit documents and information to the

Committee in support of their candidacy or continued employment. The Committee, with the input of the employee or applicant, will identify the accuracy of the criminal history disclosed. In addition, the Committee will have an opportunity to discuss with the employee or applicant the potential relevance of the conviction to the position, employment since the conviction, activities, rehabilitation or restitution since the conviction, truthfulness of the candidate, and business necessity. The employee or candidate has an obligation to provide information related to the conviction honestly and completely. The Tollway reserves the right to terminate employment based on falsification of information during the individualized assessment. The information gathered by the Committee will be provided to the Criminal Background Review Board for further consideration and action.

4. Criminal Background Review Board

The Criminal Background Review Board consists of two designees appointed by the Executive Director. The Tollway's Legal department may provide legal counsel. The Criminal Background Review Board will consider the information provided by the Criminal Background Review Committee and make a recommendation to the Executive Director regarding the individual's suitability for employment or an identification badge, or recommendation for discipline for existing employees.

Section I. Harassment and Discrimination

Harassment and Discrimination

1. General Policy

The Tollway is committed to maintaining a work environment free from unlawful harassment and discrimination and will not tolerate harassment or discrimination by or against any Tollway employee in the terms, conditions, or privileges of employment. Any employee found to have engaged in unlawful harassment or discrimination will be subject to discipline up to and including discharge. When wrongful conduct is determined, discipline, up to and including discharge, may be taken against the offending party. Given the seriousness of the consequences for the accused, a knowingly false charge of discrimination or harassment is a severe offense that can result in disciplinary action up to and including discharge. Any supervisor so contacted must contact the Tollway's EEO Officer immediately. Failure to do so may result in disciplinary action up to and including discharge.

2. General Harassment

Harassment is verbal or physical conduct that rises above the level of a personality conflict that denigrates or shows hostility or aversion that:

- a. has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- b. has the purpose or effect of unreasonably interfering with an individual's work performance; or
- c. otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the employer's premises or circulated in the workplace, including via the computer.

3. Sexual Harassment

The Tollway condemns and will not tolerate sexual harassment of its employees. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may involve members of opposite genders or the same gender. It may occur between a supervisor and a subordinate, co-workers, a Tollway employee and vendor and/or customer. For purposes of this section, prohibited sexual harassment includes, but is not limited to:

- a. Verbal: Sexual innuendoes, suggestive comments, insults, humor, jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, statements about someone's

anatomy, or statements about other employee(s) of a sexual nature, even outside of their presence.

- b. Nonverbal: Leering or obscene gestures, sexually suggestive body gestures, or suggestive or insulting sounds.
- c. Visual: Posters, signs, pin-ups, or slogans of a sexual nature, viewing pornographic or suggestive material or websites.
- d. Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, pulling clothing, any coerced sexual act, or assault.
- e. Text/Electronic: any use of electronic media (i.e., text messages, instant messages, blogs, social networks, email etc.) to send or disseminate messages or data that includes sexual content (i.e., pictures, video, text) cyber stalking, threats, or the like and other forms of sexual harassment disseminated electronically.
- f. Other forms of harassment motivated by the gender of the victim of the harassment.

4. Discrimination

The Tollway will not tolerate discrimination by or against any employee. Discrimination is the unfair treatment or denial of terms and conditions of employment because of race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, unfavorable discharge from military service, pregnancy, arrest record, or any other characteristic protected by law.

The Tollway has established an Affirmative Action Program to promote opportunities for individuals in certain protected classes throughout the Tollway organization. Each Tollway employee shall be fully committed to the Tollway's Affirmative Action Program and other efforts to achieve equal employment opportunities.

5. Responsibility of Employees

The Tollway encourages prompt reporting of incidents of suspected discrimination, harassment or retaliation, regardless of the offender's identity or position. Employees must refrain from any form of discrimination or harassment in the workplace. An employee who sexually harasses an employee or customer may be held personally liable for his or her individual conduct and may be subject to disciplinary action up to and including discharge.

Any employee who believes s/he has been the subject of harassment or discrimination should report the problem immediately to the EEO/AA Officer or OIG, and, if s/he feels comfortable, then also to his/her supervisor. All employees have a duty to cooperate fully with an EEO investigation unless otherwise protected by law.

6. Responsibility of Supervising Personnel

Each supervisor is responsible for maintaining a workplace free of harassment and discrimination. Supervisors must promote a professional environment and immediately notify the EEO Officer of any observed or alleged harassment, discrimination or retaliation. This duty applies even in cases in which an employee tells the supervisor about behavior that may constitute harassment or discrimination but does not want to make a formal complaint. Supervisors must ensure that there is no retaliation against an employee complaining of harassment or discrimination. Failure to do so may result in disciplinary action up to and including discharge.

7. Procedures for Reporting Harassment or Discrimination

An employee who either observes or believes s/he is the target of harassment or discrimination should deal with the incident(s) promptly. Proper responses to conduct which is reasonably believed to be harassment or discrimination include the following:

- a. **DIRECT COMMUNICATION.** If the employee suspects harassment or discrimination, and the employee feels comfortable doing so, the employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. However, direct communication is not required.
- b. **INFORM SUPERVISOR.** Even if direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, and the employee feels comfortable doing so, the employee should promptly report the problem to his/her or any other supervisor. If the supervisor is involved, and the employee feels comfortable doing so, the employee should report the problem to the next level of supervision.
- c. **INFORM EEO OFFICER.** An employee should always report suspected harassment or discrimination to the EEO Officer. Any Supervisor informed of potential harassment or discrimination should also report the matter to the EEO Officer. The EEO Officer will counsel the reporting employee and investigate the complaint. Due to the serious implications of harassment and discrimination charges and the difficulties associated with the investigation and questions of credibility involved, the

employee's willing cooperation in an investigation of harassment and discrimination allegations is vital to an effective inquiry and appropriate outcome. Whenever possible, employees should document in writing alleged incidents of harassment or discrimination, although employees should not delay reporting alleged incidents in order to prepare such documentation. Employees who fail to promptly report incidents of harassment or discrimination may lose legal rights as a result and such delay may adversely impact the EEO Officer's ability to investigate.

- d. **REGULATORY AGENCIES.** Employees have the legal right to file a discrimination, harassment, or retaliation charge with the Illinois Department of Human Rights (IDHR) or the U.S. Equal Employment Opportunity Commission (EEOC).

8. Protection from Retaliation

Retaliation against an employee who reports or is a witness to suspected harassment or discrimination is forbidden. Any employee found to have retaliated against a complainant or witness may be subject to discipline, up to and including discharge.

9. Bullying Behavior

Bullying may involve repeated, health-harming mistreatment of one or more persons by one or more persons. It is generally a slow process of emotional and psychological manipulation that can occur from one or more of the following:

- a. Verbal abuse;
- b. Offensive conduct/behavior (including non-verbal) that is threatening, humiliating or intimidating;
- c. Work interference or sabotage which prevents work from getting done.

Five common characteristics of workplace bullying which can lead to anxiety and stress are:

- a. Acting out;
- b. Isolating/excluding co-workers;
- c. Intimidation – overt or veiled threats;
- d. Projecting blame or using others as a scapegoat;

- e. “Jekyll and Hyde” treatment – bully alternates between intimidation when unobserved and kind and cooperative when observed.

The Tollway condemns and will not tolerate bullying of or by its employees. Individuals who believe they are a target of a bully are encouraged to report the problem to their (or another) supervisor or Administration. Any employee who engages in bullying behavior may be subject to discipline up to and including termination.

Section J. Disability Accommodations

Disability Accommodations

1. General Provisions

The Tollway is committed to complying with the Americans with Disabilities Act (“ADA”) and applicable state and local laws prohibiting discrimination in employment against qualified individuals with disabilities. It is the Tollway’s policy to, without limitation:

- a. Ensure that qualified individuals with disabilities are treated in a nondiscriminatory manner in the pre-employment process and that employees with disabilities are treated in a non-discriminatory manner in all terms, conditions, and privileges of employment.
- b. Engage in a flexible and interactive process with applicants and employees to select a reasonable and effective accommodation that does not create an undue hardship on the Tollway and help effectuate such accommodation.
- c. Keep all medical-related information confidential in accordance with the requirements of the ADA and retain such information in separate confidential files in accordance with HIPAA, and other privacy laws.

2. Procedure for Requesting Accommodation

Employees with disabilities shall make requests for reasonable accommodation to the Tollway’s ADA Coordinator. Employees who seek an accommodation must complete an ADA request form and supply other documentation required by the ADA Coordinator. ADA request forms are available on Crossroads and also from the ADA Coordinator. Employees and medical providers must certify that the information in support of an

accommodation is truthful. Upon receipt of the accommodation request and supporting documents, the ADA Coordinator will assess the limitations resulting from the disability and the potential accommodation(s) the Tollway might provide so that the individual can perform the essential functions of the job. The ADA Coordinator will confer with the appropriate management representative(s) to determine whether an accommodation imposes an undue hardship on the Tollway.

The ADA Coordinator will inform the individual of the Tollway's decision regarding the accommodation request and/or how the accommodation will be implemented. If the accommodation request is approved, the accommodation will be reassessed periodically to ensure the accommodation remains reasonable, effective, and does not impose an undue hardship on the Tollway. If at any time it is determined that the accommodation does not effectively allow the employee to perform the essential functions of the job, or the individual's job performance does not meet the Tollway's standards, the Tollway reserves the right to review the accommodation and engage in the interactive process for an alternative accommodation.



Chapter 3. **EMPLOYMENT AND PERSONNEL ACTION**

Section A. Employee Status

1. Employment Categories

To help understand employment status and benefit eligibility Tollway employees are classified as either “NON-EXEMPT” or “EXEMPT” from federal and state wage and hour laws. An employee’s “EXEMPT” or “NON-EXEMPT” classification may be changed only with the approval of the Executive Director in accordance with applicable law. An employee may contact Administration to find out if s/he is an exempt or nonexempt employee under this category.

- a. NON-EXEMPT employees are entitled to overtime pay or compensation time under the provisions of federal and state laws. These individuals will receive overtime pay or compensation time as indicated in the FLSA or Illinois minimum wage laws.
- b. EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. This means that the salary and work of the employee is such that no additional compensation for "overtime" hours must be paid. However, employees may be eligible for Personal Time Earned (“PTE” – see Chapter 5).

2. Types of Employment

- a. Full-Time Employee: An individual who is regularly scheduled to work at least twenty (20) hours per week, and is eligible for Tollway sponsored benefits.
- b. Part-Time Employee: An individual who is hired when the nature of the Tollway's work requires an augmentation of the regular work force. The work hours of part-time employees shall be arranged to best serve the needs of the Tollway. The part-time employee is normally scheduled for

no more than twenty (20) hours a week, and may be eligible for certain Tollway sponsored benefits.

- c. Seasonal Employee: An individual who is hired for certain periods of time in response to increased workloads during a certain time of the year, and may be eligible for certain Tollway sponsored benefits.
- d. Seventy-Five Day Employee: An individual who is a retiree collecting a pension from SERS and who may not work more than seventy-five days in any calendar year without adversely affecting his/her pension.
- e. Co-Op Employee: An individual who is a student participating in his or her school's Co-Op program, whereby the Tollway offers the student practical work experience.
- f. Intern: An advanced student or recent graduate in a professional, technical or trade program who undergoes a period of practical experience in State government. These positions will be limited in duration, and may result in an offer of employment at the completion of the internship, if permitted by law although there is no guarantee of permanent employment and none should be expected.

3. Probationary Status

New employees will serve a probationary period of six (6) months. A new employee's probationary period may be extended up to an additional three (3) months at the recommendation of the Department Chief to provide additional time to develop job proficiency. During their probationary period, new employees will be ineligible for salary increases, change of employee status, use of vacation, or paid leave.

Probationary periods for transfers, promotions, voluntary, and involuntary grade reductions within the Tollway are three (3) months, and may be extended up to an additional three (3) months if deemed necessary for the employee to develop job proficiency by the Department Chief. Use of accrued sick or vacation time may be granted if department needs allow, but may result in the extension of the probationary period. During a probationary period, an employee may apply for posted openings. However, they will not be considered for promotion unless their initial probationary period is completed satisfactorily at the time the Tollway is ready to extend a provisional offer. If an employee does not complete probation satisfactorily s/he may be reassigned to the previous position if available, or separated from service.

In the event a probationary employee is granted an approved absence of more than fifteen (15) working days, the probationary period will automatically be extended by an equivalent number of working days. Probationary employees may be terminated at any time during the original or extended probationary period with the approval of the Executive Director.

4. Professional License or Registration

Various positions within the Tollway require professional registration or professional licensure, with some requiring multiple licensure. Where applicable, these requirements are indicated on all job postings and job descriptions. The Tollway will pay directly or reimburse employees for fees paid for renewals of professional licensure/registration that are required of the position, upon proof of payment as budgetary constraints allow, and with Department Chief approval. Pre-requisites for these positions include:

- a. Active Illinois registration or licensure at time of application for positions requiring registration or licensure by the State of Illinois.
- b. The current license/registration must be acceptable by the State of Illinois and must be transferable to the State of Illinois and remain active throughout employment.
- c. Proof of registration or licensure must be provided within 24 hours of a request.
- d. Failure to maintain active registration or licensure may be grounds for disciplinary action up to and including termination.

Section B. Change in Employee Status

The Tollway may transfer employees for fiscal or operational reasons at the discretion of the Executive Director. For each of the following employment actions, a Tollway employee is expected to serve a probationary period of three (3) months. Benefits, seniority, accrual of paid sick and vacation time and other such benefits will follow an employee into his/her new position and are not suspended during this probationary period. However, an approved absence of more than fifteen (15) working days during the probationary period will automatically extend the probationary period by an equivalent number of working days.

1. Promotions

A promotion occurs when an employee's position is increased in salary grade and the promoted employee assumes new or additional responsibilities. Promotional opportunities ordinarily will be posted on the Tollway's web site and internal bulletin boards for at least five (5) working days, enabling interested employees to inquire about and apply for the open positions. Promotional opportunities are subject to the incumbent having a satisfactory attendance and disciplinary record. A review of the personnel file may occur prior to making a final decision regarding any promotion.

A promoted employee who fails to demonstrate within the probationary period an ability to competently perform the duties of the new position will be returned to a position for which the employee is qualified, based on availability of such a position and relevant collective bargaining consideration, and at the compensation level (salary or hourly) earned before the promotion.

2. Involuntary Reduction in Grade

An involuntary reduction in grade involves the re-assignment of an employee to a vacant position in a classification having a lower maximum permissible salary or rate than the classification from which the involuntary reduction is made. An involuntary reduction may be based upon the employee's inadequate or unsatisfactory job performance documented in the employee's personnel records. It may also occur as a result of a reorganization of departments or the removal of an individual from an exempt position, but does not include returning a previously promoted employee to his/her former class based on a failure to demonstrate necessary competencies to fulfill the duties of the new position within the probationary period. An involuntary reduction in grade must be approved by the Department Chief, Chief of Administration, and Executive Director. Upon an involuntary reduction in grade, if an employee's salary exceeds the maximum of the lower classification salary rate, the employee's salary will remain the same, and the employee will receive no increases until the employee's salary falls within the grade classification for the position currently held by the individual.

3. Voluntary Reduction

An employee may voluntarily request a reduction to a vacant position in a lower classification, the duties of which the individual is qualified to perform. Such a request should be made in writing to the Chief of Administration and their Department Chief. The Tollway prefers to fill vacancies by promotion rather than reduction in classification. A voluntary reduction generally occurs following the posting of a vacant position and interview process.

4. Lateral Transfer

A lateral transfer involves the assignment of an employee to a vacant position whose classification has the same salary range. An employee may seek a transfer to a vacant position by submitting a written request to the Chief of Administration and their Department Chief. The request for transfer may be approved if, in the judgement of the Department Chief of the new position, the employee is the most highly qualified for the position sought and has a good work record, and the Tollway deems it in the best interest of the agency.

Section C. Job Description / Job Evaluation

Each position shall have a written job description based upon a careful analysis of the duties of the position and the qualifications demanded. Each job description should cover:

- Job functions;
- Nature, scope of responsibility, and accountability of the position;
- Reporting requirements;
- Physical requirements;
- Required education, skill, experience, and licensure; and
- Classification.

Administration, in conjunction with the using department, reviews and revises job descriptions when there are significant revisions in job duties or prior to posting a vacancy. Department Chiefs are responsible for reviewing and updating existing jobs and job descriptions to ensure:

- that the positions as written remain needed;
- accuracy when the job is advertised for hiring and during annual evaluations; and
- that the description accurately portrays the key functions, accountabilities and duties expected.

If a Department Chief believes the duties, responsibilities or skills required of a position have changed so as to warrant a change in the classification or salary, the Department Chief will so advise Administration of the reasons in writing. Any non-bargaining unit employee who believes that his or her job is improperly classified may seek a classification review by making a written request to his/her Department Chief no more than once every two years. If

the Department Chief concurs, the request will be referred to Administration for further review and determination.

Master files of all job descriptions are kept by Administration and are available for review upon request by any employee with approval of the Chief of Administration.

Section D. Performance Evaluations

1. General Provisions

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal and ongoing basis. Formal performance evaluations are conducted:

- a. at the end of an employee's initial probationary period (six (6) months);
- b. at the end of the probationary period associated with a change in employment status (i.e., reassignment or promotion);
- c. when there is a change in supervisory staff;
- d. when the supervisor believes it is desirable to formalize and record employee performance;
- e. on an annual basis or as provided in a collective bargaining agreement.

2. Content of Evaluation

Annual written performance evaluations should be in the standard form as provided by Administration and cover at least the following areas:

- a. Work performance;
- b. Accomplishment of goals and objectives;
- c. Establishment of mutually acceptable new objectives;
- d. Areas where improvement has been shown;
- e. Areas where improvement is needed;
- f. Attendance/timeliness;

- g. Acceptance of instruction and direction; and
- h. Disciplinary problems.

3. Evaluation Procedure

Supervisors will discuss each written evaluation with the employee and obtain the employee's signature on the evaluation reflecting review by the employee. The employee may add comments pertaining to the evaluation, however such comments may not unduly delay completion and timely submittal of the evaluation. If an employee refuses to sign, the Supervisor should note the refusal on the evaluation, as well as the date and time when the evaluation and the opportunity for discussion were provided to the employee. The Supervisor will then sign the evaluation and submit it to the Manager and/or Department Chief of Officer for final approval. The evaluation will be forwarded to Administration and retained in the employee's personnel records.

Section E. Employee Personnel Records

The Administration Department maintains the official personnel file on each employee. The personnel file may include such information as the employee's job application, resume, records of training, performance evaluations, salary increases, and other employment records. Personnel files are the property of the Tollway, and access to the information is restricted and will be kept confidential.

Employees may review their personnel records by contacting Administration. All reviews shall occur at CA and in the presence of an individual assigned by Administration. An employee may designate in writing an authorized agent to review that employee's personnel records.

A copy of correspondence, forms and reports having a direct bearing on an employee's employment at the Tollway will be furnished to the employee upon request to Administration. This data may include, but is not limited to: hours of work, salary history, leaves, benefits, insurance, disciplinary action, and grievances.

Personnel records are not available for public inspection, except as provided by The Personnel Records Review Act or other applicable law. Tollway management or counsel may review information in an employee's file only after authorization by the Chief of Administration or Executive Director or as permitted by law.

Outside written requests for information must be in compliance with the Freedom of Information Act. Any telephone request regarding an employee shall be limited to acknowledging whether the Tollway employs the person.

Section F. Employee Personal Data Changes

It is the responsibility of each employee to promptly notify Administration of any changes in employee personal data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such information in the employee's personnel records should be accurate and current at all times. The Tollway shall not be liable for any action, inaction or misdirected action regarding an employee or his/her dependents due to incorrect employee personal data.

Section G. General Merit / Salary Adjustments

The Tollway may implement merit/salary adjustments for all non-bargaining unit personnel periodically, but is not obligated to make such adjustments. Salary increases within pay ranges vary according to the employee's performance level and current position in the salary range.

Section H. Fitness for Duty Examinations

The Tollway may order a fitness for duty examination be conducted when an objective concern for an employee's ability to safely perform their job is observed. Any exam shall be given at Tollway expense with no loss of pay. However, an employee may be placed on paid leave while the results of the exam are pending. If the result of the exam indicates the need for treatment, the employee will then be placed on an appropriate leave which may or may not include pay. Tollway employees who refuse to cooperate in the fitness for duty examination will be considered insubordinate and subject to discipline up to and including discharge. If an employee cancels a medical appointment(s) or otherwise delays the fitness determination, the paid leave status may be suspended.

Information on an employee's medical condition or history will be kept confidential and separate from other employee information. This information shall be disseminated only for a legally authorized reason.

Section I. Layoff

Employees may be laid off if, in the judgment of the Executive Director, economic, or operational requirements demand a reduction in work force.

Section J. Termination

An individual's employment with the Tollway is terminated upon the employee's withdrawal from service for any reason except an approved leave of absence. Below are examples of some of the most common circumstances under which the Tollway terminates the employment of its employees:

1. RESIGNATION – voluntary employment termination initiated by an employee. An employee is expected to give the Tollway at least two (2) weeks' notice prior to the effective date of his/her resignation.
2. DISCHARGE – involuntary employment termination initiated by the Tollway.
3. RETIREMENT – voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria established by SERS for retirement from the Tollway.
4. SEPARATION – when the Tollway discontinues the employment relationship with an employee due to various circumstances, including but not limited to, an employee exhausting all Tollway benefit time and leave time, an employee no longer being capable of performing required job duties with or without reasonable accommodation, or eliminating the employee's job position in conjunction with a layoff or reorganization.
5. JOB ABANDONMENT – when an employee fails to report for work or call to report his or her absence in accordance with collective bargaining agreement provisions or for two (2) consecutive days, whichever applies.

Upon termination of employment, an employee shall immediately return all property and identification belonging to the Tollway. An employee whose

employment is terminated by the Tollway for cause, or who upon a voluntary resignation, fails to return all Tollway property and identification, may not be eligible for rehire by the Tollway. Employees will receive their final pay in accordance with applicable state law and Tollway policies. To the extent allowed by law, or agreed to by the employee, any monies the employee owes to the Tollway (e.g., tuition reimbursement, tolls) will be deducted from the employee's final paycheck.

Section K. Exit Interview

The EEO Officer will conduct a confidential exit interview with terminated employees. Comments and information submitted by employees during their exit interviews will be evaluated to monitor the effectiveness of supervisors and the Tollway itself. A summary of comments and ratings received from terminated employees is completed and forwarded to the Executive Director, Chief of Staff, and Chief of Administration quarterly. Department specific comments may be provided to the Department Chief for possible improvement of the work environment.

Section L. Workers' Compensation

1. General Provisions

The Illinois Workers' Compensation and Occupational Disease Act provides benefits to an employee who has sustained a job-related injury or occupational disease. Any employee who sustains a work-related injury or illness, no matter how minor, must inform his/her supervisor immediately. The employee should complete all necessary forms and return them to the Workers' Compensation Section and/or third party administrator. Failure to do so on a timely basis may result in the claim being delayed or denied. The Workers' Compensation Section and/or an outside vendor will handle communications with an employee regarding a claim. Employees are allowed to accumulate vacation benefit time while on temporary total disability for a maximum period of twelve (12) months from the date of a work-related injury.

2. Designation of Absences

- a. An employee must use earned sick time for the initial three (3) days of absence. If an employee has no available sick time for any of these three (3) days, this time will be unpaid.

- b. After the first three (3) days of absence, Temporary Total Disability (TTD) benefits, when applicable, are extended to the injured employee until such a time as that individual is released to return to gainful employment.
- c. All employees who are off at least fourteen (14) days receiving TTD, and who have utilized any sick time in the first three (3) days, are required to reimburse the Tollway from the TTD compensation paid to the employee when sick time was utilized. The employee will then be credited those sick days as if they had never been used.
- d. Any employee off in accordance with Workers Compensation will have FMLA time debited concurrently. The medical information generated from the Worker Compensation case is sufficient documentation to debit FMLA time.

3. Fraudulent Claims

Fraudulent claims will not be tolerated. The Tollway will refer any fraudulent claim for appropriate investigation to the OIG and/or the Fraud Unit for the State of Illinois. Any employee presenting a fraudulent claim is subject to discipline, up to and including discharge, and may also be subject to criminal charges at the conclusion of a fraud investigation.

4. Transitional Duty

The Tollway may utilize a Transitional Duty assignment for employees who have incurred a work-related injury and are temporarily medically unable to return to full duty status. The primary goals of the Program are to protect the employability of the worker, to prevent and reduce the number of lost days, to increase overall productivity of both the employee and the Tollway, and to assist in returning the employee to full employment status at the most appropriate time as determined by competent medical professionals.

The transitional work activities will be at the employee's normal work facility, if possible. Assignment to an alternate facility or to CA will be at the Tollway's discretion, and as permitted by collective bargaining agreements. Depending on the employee's medical restrictions, transitional work tasks may entail modification of current job demands, assignment of new tasks, or a different work schedule. Transitional duty assignments will be evaluated every thirty (30) days, and include a review of all medical documentation. The employee may be placed in an alternative transitional duty position based on his/her degree of recovery for additional thirty-day (30) periods if work needs and medical documentation allow. If no transitional duty work is available s/he will remain off work until medically able to return to full duty. If permanent



restrictions are medically noted, the ADA Coordinator will be contacted to determine if an accommodation can be provided as a result of the employee's permanent disability.

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Chapter 4. **BENEFITS / APPROVED LEAVES**

Section A. Employee Benefits

Tollway employees may be eligible for a wide range of benefits, including those prescribed by law (e.g., Social Security, workers' compensation, state disability, and unemployment insurance). Eligibility for benefits is dependent upon a variety of factors, including employee classification, and may require contributions from the employee. Administration staff will identify the programs for which an employee is eligible.

1. Medical Benefits/Insurance

The Tollway provides medical, dental, and vision insurance programs in which employees may participate. Some of these benefits may be provided by a third party through provisions of a collective bargaining agreement. However, no employees may have dual coverage. (Example: husband and wife work at the Tollway. Husband opts for family coverage and wife opts for individual coverage. This is not allowed. Husband and wife may each have individual coverage or one spouse may have family coverage in which case the other spouse 'opts out' of insurance coverage.) Please contact Administration for further information.

2. Flexible Spending Account

A Flexible Spending Account ("FSA") is a reimbursement plan managed by a third party that allows employees to use a portion of their salary to pay for medical and dependent care on a "tax-free" basis. The Internal Revenue Service does not consider the money allocated to a FSA taxable income to the employee. Employees may select a Medical and/or Dependent Care Account. Employees must decide before enrolling, the amount of their FSA salary deduction. Once employees have made their election, they will be locked into that amount for the full plan year. This general description is based on current laws and may change as the law changes.

Examples of reimbursable expenses under Medical Flexible Spending Accounts include:

- Hospital expenses
- Physician or registered nurse services
- Dental services
- Prescription drugs (co-pays); some OTC medications
- Eyeglasses, LASIK, contact lenses and prescription sunglasses
- Travel expenses to receive medical treatment
- Miscellaneous expenses such as hearing aids, prosthetics and guide dogs.

Examples of reimbursable expenses under Dependent Flexible Spending Accounts:

- Child care center
- Family day care provider
- Pre-school program
- Adult day care
- Babysitter
- Nursery school
- Home aide

The employee will forfeit any unused balance in their FSA at the end of the plan year. Once enrolled in the FSA, employees qualify for reimbursement of covered expenses incurred during the plan year. Employee FSA participants on Authorized Leave Without Pay must make an election prior to beginning their leave as to whether they will Revoke, Pre-Pay, or Pay-As-You-Go their contributions while on leave. Contact Employee Benefits for more FSA information and applications.

3. Employee Assistance Program (“EAP”)

The Tollway offers a comprehensive EAP as a benefit to employees and their family members, recognizing that a healthy company requires healthy employees, and that personal problems sometimes affect people in unhealthy ways. Counselors can provide confidential, professional help in resolving personal issues relating to stress, emotional illness, marital and family problems, alcoholism, drug abuse, legal or financial concerns, and dealing with child/elder care. EAP is a free referral service for employees and their

family members. EAP counselors provide an assessment of the situation, short-term counseling, and, if needed, a referral to a qualified professional for long-term assistance. Many outside referrals are covered by the employee's benefit plan.

All services provided through EAP are free, voluntary and confidential. No information is released voluntarily to the Tollway without the employee's written permission. For additional information regarding EAP, please contact Administration.

4. Nursing Mothers'

The Tollway will comply with the Nursing Mothers in the Workplace Act, (820 ILCS 260/1) and will provide reasonable break time for employees to express breast milk during work hours for up to one year after the birth of a child. An employee who plans to express milk during the workday should notify her supervisor and the EEO Officer. Break times will be scheduled so there is minimal interruption to operational needs, and must, if possible, run concurrently with the break time already provided to the employee. An employee may request additional unpaid break time to express milk during work hours if needed. Employees represented by a union may be governed by the appropriate collective bargaining agreement.

The Tollway is committed to providing a suitable and private location for nursing mothers to express breast milk while in the workplace. Employees are expected to be respectful of others using the room by maintaining its cleanliness and using the Nursing Moms' Privacy Room Calendar on Crossroads to schedule visits. Employees who do not work at CA should discuss their need for accommodation with their supervisor and the EEO Officer for information or with questions and concerns. The Tollway prohibits harassment or discrimination against employees who exercise their rights under this policy.

5. Holidays

The Tollway grants time off to all employees for observed holidays as approved annually by the Board of Directors. Administration circulates the listing of approved holidays. All employees will be entitled to paid holiday time off immediately upon employment with the Tollway. Holiday pay will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day.

When a holiday falls on a day on which some employees are normally scheduled to work, Department Chiefs will determine which positions (if any)

must be covered for reasons of operational necessity. All other regularly scheduled employees will receive the day off with pay as long as the employee works their full scheduled day both before and after the holiday. Holiday pay will be received if an employee utilizes pre-approved paid benefit time for either the day before or after the holiday.

If overtime eligible employees work on a recognized holiday, they will receive holiday pay at the rate of one and one-half times their straight-time rate for the hours worked on the holiday regardless of whether they work in excess of forty (40) hours in that work week. Paid time off for holidays will be counted as hours worked for the purposes of determining whether overtime pay is required.

6. Vacation Benefits

Employees earn vacation based on time worked and/or in accordance with the provisions of any applicable collective bargaining agreement. An employee who is regularly scheduled to work more than eighty (80) hours per month but less than one hundred forty (140) hours per month shall earn prorated vacation credit in accordance with the chart below. An employee will not earn vacation benefits while on suspension of thirty (30) days or more, while on a leave of absence without pay exceeding thirty (30) days, or as otherwise set forth in this Policy Manual. Upon termination of employment, employees will be paid for unused vacation time that has been earned through the last day of work in accordance with the Tollway's vacation accrual schedule, or as may otherwise be modified. Cash payment will not be made in lieu of vacation except upon an employee's death, resignation, separation, or termination. An employee (or his/her estate) will receive compensation for only the number of accrued vacation days to the date of termination or separation, and any approved vacation days carried over. The payment provided by this Section shall not be allowed if the purpose of the separation from employment is to obtain any such payment and re-employment with the Tollway is anticipated or obtained within ninety (90) days of separation.

Vacation is calculated based on the length of service with the State of Illinois. This is the twelve (12) month period that begins when the employee begins employment. Computation of vacation time for employees who have interrupted periods of State service shall be as though all previous State service qualified for earning vacation benefits is continuous with present service, consistent with 5 ILCS 360/1.

An employee can receive an advance of five (5) days of their ten (10) days earned within their first year after s/he passes the initial probationary period of six (6) months and receives the approval of their supervisor. Paid vacation

time must be used in increments of one-half day or full day increments. To take vacation time, employees should request advance approval from their supervisors. Requests will be reviewed and approved or denied based on a number of factors, including operational needs, staffing requirements, and length of service. Vacation time off is paid at the employee's base pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as shift differentials.

Any employee may not carry more than two years of unused vacation days forward to the next calendar year. All vacation days that are carried over to the subsequent calendar year shall be forfeited by December 31st of that year if unused, unless otherwise provided for in a collective bargaining agreement.

The amount of paid vacation time an employee receives each year depends on the length of their continuous service and will be accrued on a monthly basis according to the following schedule. The increase in days of vacation earned occurs after the completion of the full service year.

Years of Creditable Service	Days of Vacation	Hours Earned by Month											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
0-5	10	6.66	6.66	6.66	6.66	6.66	6.66	6.66	6.66	6.66	6.66	6.66	6.66
6-9	15	10	10	10	10	10	10	10	10	10	10	10	10
10-14	17	11.33	11.33	11.33	11.33	11.33	11.33	11.33	11.33	11.33	11.33	11.33	11.33
15-19	20	13.33	13.33	13.33	13.33	13.33	13.33	13.33	13.33	13.33	13.33	13.33	13.33
20-25	22	14.66	14.66	14.66	14.66	14.66	14.66	14.66	14.66	14.66	14.66	14.66	14.66
26-	25	16.66	16.66	16.66	16.66	16.66	16.66	16.66	16.66	16.66	16.66	16.66	16.66

7. Disability

If an employee is disabled while employed with the Tollway, s/he may be eligible for disability benefits through SERS. Disability benefits may also be made available pursuant to the provisions of an appropriate collective bargaining agreement.

Occupational Disability requires a Workers' Compensation claim, at least six (6) months of service credit, a work-related illness or injury, and an application for benefits to SERS within either twelve (12) months following the removal from payroll or within twelve (12) months after the Workers' Compensation Commission rules on an employee's application for occupational disability benefits, whichever is later. Employees may apply to SERS to receive the difference between what Workers' Compensation pays and seventy-five percent (75%) of their salary.

Non-occupational disability requires employees to have at least eighteen (18) months of credited service to be eligible for benefits, exhaust all sick time, be granted a leave of absence by the Tollway and submit an application with Employee Benefits. Employees will receive half of their salary for a maximum of one-half of his/her service time, assuming all other SERS' requirements are satisfied. SERS is responsible for mailing and receiving appropriate documents and all decisions related to disability benefits.

8. Health Insurance Benefits Continuation ("COBRA")

COBRA provides employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the Tollway's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, death of an employee, reduction in an employee's hours, divorce or legal separation, and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage at the Tollway's group rates plus an administration fee. The Tollway provides each eligible employee with a written notice containing important information about the employee's rights and obligations under COBRA. Address questions regarding COBRA to Administration.

9. Educational Assistance/Tuition Reimbursement

a. Work-Related Training

It is the policy of the Tollway to assist employees who wish to increase their knowledge and skills. Employees are encouraged to improve their knowledge and skills by pursuing and successfully completing appropriate courses of study provided by the Tollway. Employees may attend training sessions for the mutual benefit of the employee and the Tollway. Employees may not be eligible for overtime or receive compensatory time off for voluntary attendance at evening or weekend classes or classes held on State holidays.

Travel time to attend any voluntary training sessions or workshops unrelated to the employee's current responsibilities and conducted outside of working hours will not be considered work time and thus will not be eligible for payment. Travel time outside regular working hours to attend required training sessions or workshops may require compensation in accordance with the FLSA.

Employees may be directed to attend educational or training programs that, in the judgment of management, may aid them in understanding or performing job-related functions. Such programs may also require attendance

during evenings or on dates when employees are not otherwise scheduled to work. Any related travel expenses will be reimbursed according to the Travel Control Board's Guidelines. All requests to attend these programs must be pre-approved by the employee's Department Chief.

b. Tuition Reimbursement Program

The Tollway recognizes that the skills and knowledge of its employees are crucial to the success of the organization. The tuition reimbursement program encourages personal development through formal education so that employees can maintain and improve job-related skills, or enhance their ability to compete for reasonably attainable jobs within the Tollway. The Tollway will provide, as its budget permits, tuition reimbursement to all permanent employees who have completed their initial probationary period.

Employees must submit a Tuition Reimbursement Request Form to the Chief of Administration at least one (1) month before the start of class. If the form is submitted later, it will be considered; however, there are no assurances that the applicant will be notified prior to beginning classes that the tuition reimbursement request has been approved, or that there will be funds available for reimbursement. The Chief of Administration has the sole discretion to determine whether a course relates to an employee's current job duties or a foreseeable future position, and is thus eligible for the Tuition Reimbursement Program. In the absence of the Chief of Administration, a designee of the Executive Director shall review and approve all requests for Tuition Reimbursement.

In order to be eligible for educational assistance, employees must take courses that are:

- 1) Part of a high school or GED program;
- 2) Related to the employee's current job duties or a foreseeable future position within the Tollway that are part of a technical school, junior college, undergraduate or graduate degree, or a licensing or certification program, offered by an accredited institution;

Upon satisfactory completion of an approved course, as evidenced by the report card, up to 100% of the amount of tuition and lab fees will be reimbursed up to \$5,250 per employee per year. Other school related fees are not eligible for reimbursement. Satisfactory completion of a course consists of a minimum letter grade of "C" or "Pass" in a "Pass/Fail" course. In applying for tuition reimbursement, an employee will indicate on the Tuition Reimbursement Request Form whether s/he is receiving aid from other sources (e.g., G.I. Bill, federal grants, scholarships). Tuition reimbursement

by the Tollway will only be made on the balance the employee was required to cover.

While educational assistance is expected to enhance employees' performance and professional abilities, the Tollway cannot guarantee that participation in formal education will result in the employee's advancement.

To maintain eligibility, employees must remain on the active payroll and perform their job satisfactorily through the completion of each course. Any Tollway employee who receives tuition reimbursement is expected to remain employed with the Tollway for two (2) years after the date of completion of course(s) for which an employee received reimbursement. If the employee leaves before fulfilling this requirement, the employee must reimburse the Tollway for any tuition reimbursement funds received within the two years prior to the date of the employee's termination.

10. Retirement

SERS administers two (2) Tiers of retirement categories, as well as other benefits for Tollway employees.

- a. Tier 1: Employees who were hired before December 31, 2010
- b. Tier 2: Employees who were hired after December 31, 2010 and had no service time with a reciprocal agency (i.e., other recognized governmental entity).

Pre-retirement training classes for which attendance is encouraged are available through SERS. Any changes in benefits available through SERS are directed by SERS. Information about these benefits can be obtained by contacting Administration or SERS.

Section B. *Employee Leaves*

1. Sick Leave

The Tollway provides paid sick leave benefits to all permanent employees for periods of temporary absence due to illnesses or injuries. Sick leave is to be used for the employee's illness or the illness of a child, or step-child, spouse, parent, step-parent, mother- or father-in-law, sibling, grandchild, grandparent, self or any person living in the employee's household for whom the employee has custodial responsibilities. Employees should make a reasonable effort to schedule medical/dental appointments to minimize the impact on normal working hours. The Tollway may, in its discretion, require a physician's statement for sick leave absences.

Eligible employees will accrue sick leave benefits at the rate of twelve (12) days per year (one (1) day for every full month of service) of which six (6) days total may be used for personal time, as explained in Section 3. Sick leave benefits are calculated on the basis of a calendar year. Sick leave will be pro-rated during the first year of employment. Unused sick leave benefits will be credited on a monthly basis and will be accrued indefinitely.

Employees can request use of paid sick leave after completing the probationary period of six (6) months from the date they begin employment. To earn sick leave within any calendar month, a permanent employee must be credited a minimum of eighty (80) hours of pay in that month. Employees who are generally scheduled less than forty (40) hours per week must be credited a minimum of forty (40) hours of pay in that month. (The credited amount of pay can be through hours worked or a combination of hours worked and benefit time used.) Paid sick leave may be taken in one-hour increments. An employee's use of sick leave for a medical, optical, or dental examination, or a known illness or injury, is subject to approval by the employee's supervisor. Under such circumstances, an employee must notify the supervisor in advance and give the probable length of absence regarding the illness or examination.

Employees unable to report to work due to unexpected illness or injury should notify their supervisor at the scheduled start of their workday or as soon as medically possible. The supervisor must also be contacted at or before the start of each scheduled workday on each additional day of absence due to unexpected illness or injury, unless an extended leave has been approved, in which case notification to the supervisor should be as required under the appropriate extended leave.

If an employee is absent for three (3) or more consecutive calendar days due to unexpected illness or injury, the employee must comply with FMLA procedures below. In the event the absence does not fall within FMLA (i.e., not certified as a serious medical condition), a physician's statement must be provided upon returning to work verifying the illness or injury and its beginning and ending dates as a condition of receiving sick leave benefits.

Sick leave benefits are intended solely to provide income protection in the event of illness or injury. Unused sick leave benefits will not be paid to employees while they are employed. Upon termination of employment for any reason, or upon layoff, an employee or the employee's estate will be paid at half rate only for unused sick leave that was accrued on or after January 1, 1984, and through December 31, 1997, provided the employee is not employed in another position in State service. An employee will not receive compensation for any other accrued sick leave benefits upon separation of employment. The employee's straight time rate of pay at the time of separation will be used to compute the value of the lump sum payment that is due for unused sick days. The payment provided by this section shall not be allowed if the purpose of separation from employment and any subsequent re-employment with the Tollway is for the purpose of obtaining such payment.

Upon retirement, an employee may increase the credited service used to determine an employee's retirement benefit by any period of unused and unpaid sick leave accumulated on that employee's retirement date. This additional credited service does not effect that employee's final average compensation or the effective date of the employee's benefit, but it may be used to establish eligibility for benefits, consistent with SERS provisions.

2. Sick Leave Bank Program

The Tollway provides a Sick Leave Bank Program. This program allows employees to contribute to the Sick Leave Bank in order to allow an employee to utilize banked time for a catastrophic illness after that employee has exhausted their accrued vacation time and sick leave/personal time, PTE or compensatory time. Participation in the Sick Leave Bank is voluntary and limited to permanent employees. Employees interested in participating in the Sick Leave Bank may obtain the necessary form from Crossroads, their department manager or Administration. This form must be completed and returned to Administration where the necessary review and adjustment transactions will be made if the employee is eligible to become a member of the Sick Leave Bank Program.

a. Enrollment

- 1) Employees must maintain a minimum of seven (7) days of accumulated sick time on the books to enroll in the Sick Leave Bank and must donate a minimum of one (1) day up to the remainder of accrued sick leave time to the Sick Leave Bank and may do so at any time.
- 2) An employee may donate additional days as desired at the time of enrollment or at any time thereafter. Such donated sick days will be allocated to other participating employees and/or themselves.
- 3) Employees must wait sixty (60) calendar days before using Sick Leave Bank.

b. Use of Sick Bank Leave

- 1) Requires a catastrophic illness or injury to the employee or the employee's immediate family. Catastrophic illness or injury means temporary disability or incapacity resulting from a life threatening illness or injury of catastrophic proportions.
- 2) An employee's immediate family consists of a spouse, children or step-children, qualified domestic partner, civil union partner or any person living in the employee's household for whom the employee has custodial responsibilities or where such person is financially and emotionally dependent on the employee and where the presence of the employee is needed.
- 3) An employee must exhaust all accrued vacation, sick/personal leave and PTE or compensatory time before applying for Sick Bank Leave of up to thirty (30) work days within a calendar year. The request must be submitted in writing to the Chief of Administration explaining why the employee seeks to utilize the Sick Leave Bank. The request must also include a written statement from the employee's medical provider indicating why the illness or injury may be considered catastrophic.

c. Sick Leave Bank Committee

- 1) The Sick Leave Bank Committee is comprised of at least one representative from each department and reviews all requests and makes a recommendation to the Chief of Administration.
- 2) The Chief of Administration will review the Sick Leave Bank Committee documentation, and make a final decision.

- 3) Employees will be compensated for sick leave time awarded from the Sick Leave Bank at their current earning rate.
- 4) The Committee will ensure that the rules included in this section are equitably and fairly applied to all participants in the Sick Leave Bank Program. Any abuse of the program may result in disciplinary action.

d. Sick Leave Bank Program Rules

- 1) If an employee is awarded up to thirty (30) work days from the Sick Leave Bank within a calendar year, the employee must reapply and donate at least one (1) day of additional sick leave to continue membership in the Program.
- 2) Employees participating in the Sick Leave Bank Program who separate and return to permanent status within five (5) years of the date of separation shall, upon verification, have their Sick Leave Bank membership reinstated.
- 3) Upon termination, retirement, or death, neither a participating employee nor the participating employee's estate shall be entitled to payment for unused sick leave donated to and/or acquired from the Sick Leave Bank.
- 4) Injuries and illness that are compensated under the Workers' Compensation Act or Workers' Occupational Disease Act shall not be eligible for Sick Leave Bank use.

3. Personal Leave

After completing six (6) months of initial service, permanent employees may, in any calendar year, use up to but not more than six (6) days, or appropriate pro rata amounts, of earned but unused sick leave for personal business reasons. Personal business is defined as errands, duties or responsibilities beyond an employee's control that can only be accomplished during business hours. Personal Leave may be taken in increments of one hour. Except in emergencies, requests for Personal Leave are subject to advance approval by the employee's supervisor. Any personal time remaining at the end of the calendar year will carry over. For additional information or questions, contact your Supervisor or Payroll.

4. School Visitation Leave

The Tollway will comply with the School Visitation Rights Act, (820 ILCS 147/1 et seq.) and any revisions thereto. Accordingly, the Tollway provides up to eight (8) hours of unpaid leave during any school year, with no more than

four (4) hours to be taken in any given day, to attend school conferences, classroom activities, school functions, field trips, and other school activities of their child or children enrolled in school.

For purposes of this section, a child means a biological, adopted, foster, step-child, child of a domestic partner, or legal ward of the employee. A school is a primary or secondary public or private school in this state as defined in the Act.

Any employee wishing to utilize School Visitation Leave shall provide his or her supervisor with a written request for leave at least seven (7) days in advance of the time the employee is required to utilize the school leave. In emergency situations, no more than twenty-four (24) hours' notice shall be required. The supervisor shall make reasonable efforts to accommodate the request of the employee, and may deny the request only if the employee's absence will unduly disrupt the business operations.

In order to utilize School Visitation Leave, an employee is not required to exhaust all accrued vacation leave, personal leave, compensatory leave, or any other applicable leave. An employee who exercises School Visitation Leave may choose to make up the time taken on a different day or shift as directed by his or her supervisor, and will then be compensated at the same rate as paid for normal working time. Scheduling the make-up time should not require the payment of overtime.

Employees taking School Visitation Leave may be required to obtain documentation to substantiate participation in the school activity from a school administrator as defined in the Act. Failure to submit such verification within two (2) working days of the school visitation may result in disciplinary action for unexcused absences from work up to and including discharge.

5. Attendance in Court

a. Jury Duty Leave

The Tollway encourages employees to fulfill their civic responsibilities by serving on juries when required. Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate the employee's absence. Employees are expected to report for work whenever the court schedule permits. For any pay period in which s/he performs work for the Tollway, an employee on jury duty will earn his or her regular rate of pay, and must submit the check for jury duty compensation to Payroll.

b. Witness Service

- 1) Tollway employees may be requested to be a witness in civil or criminal lawsuits related to their employment or the Tollway's operations or State service. When the employee is not a party to the lawsuit, he or she must insist on being subpoenaed or issued a notice to appear to testify. If an employee is a party to the lawsuit, a subpoena will not be required. Additionally, if an attorney for the Tollway requests an employee's voluntary appearance a subpoena may not be required. The Legal Department can provide guidance if any questions arise in this regard.
- 2) the employee is requested to bring documents to his/her testimony, the employee must insist on being served with a subpoena for the documents and shall provide the subpoena and responsive documents to the Tollway's General Counsel for review prior to the employee's testimony in court or at a hearing or deposition.
- 3) A Tollway employee shall have time away from work with pay to serve as a witness when a subpoena is issued by any judicial, legislative or administrative tribunal in a matter relating to Tollway operations or State service. If an employee must testify or is subpoenaed to testify in a non-work related matter s/he must use available vacation, personal leave, compensatory time or be absent without pay.
- 4) The employee's supervisor is to be notified when the employee receives either a request to appear as a witness or is subpoenaed, and the supervisor shall be responsible for accurately noting the appropriate leave in KRONOS.

6. Bereavement Leave

Employees who wish to take time off due to the death of an immediate family member should notify their supervisor immediately. For this purpose, only, the Tollway defines "immediate family" as the employee's spouse, fiancé, child, brother, sister, parent, grandchild, grandparent, civil union partner, legal guardian, step-parent, step-child, as well as those in the same relationship to the employee's spouse or civil union partner. Special consideration will also be given to any other person whose association with the employee was similar to any of the above relationships, subject to the approval of the Chief of Administration.

Up to three (3) days of paid bereavement leave will be provided to full-time permanent employees. Bereavement pay is calculated based on the base

pay rate at the time of absence. Employees may, with their supervisor's approval, use any available paid leave for additional time off as necessary.

7. Family Medical Leave Act ("FMLA")

In compliance with the FMLA, the Tollway provides up to twelve (12) weeks of medical/family leave to eligible employees. Tollway employees are required to utilize all available sick time when utilizing FMLA leave. Any remaining time utilized in accordance with FMLA will be unpaid. An employee may, at his/her discretion, utilize accrued vacation, compensatory or PTE time after available sick time is exhausted. If an employee has no available benefit time to utilize, the full twelve (12) week leave will be unpaid.

For purposes of this policy, the FMLA covers birth, adoption of a child, or placement for foster care; the care of a child, spouse, parent, or self with a serious health condition. A serious health condition includes, but is not limited to, inpatient care in a hospital, hospice, or residential medical care facility; and continuing treatment by a health care provider.

Permanent employees of the Tollway are eligible to request FMLA leave after (i) completing twelve (12) months of service with the Tollway and (ii) working at least 1,250 hours in the twelve (12) months prior to when the leave commences, excluding sick, vacation, or any other authorized absences. When FMLA leave is granted, the Tollway will maintain health insurance coverage for the duration of the leave, provided the employee pays any required premium contributions. If the employee fails to return to the Tollway after FMLA leave has expired, the Tollway may recover its portion of premiums paid to maintain health insurance coverage during the FMLA leave to the extent allowed by law.

Eligible employees should inform their supervisors at least thirty (30) days in advance of a foreseeable FMLA leave and as soon as practicable for an unforeseeable leave. When an employee is requesting leave under the FMLA, the Certification of Health Care Provider Form must be completed by his/her physician in order to qualify for the benefits given through the FMLA. Proper approval of this leave is required and appropriate paperwork available through Administration or the Tollway's vendor, must be submitted to Administration or the Tollway's vendor. The Tollway is not responsible for contacting the doctors, hospitals, and other medical providers to obtain required documentation when an employee is requesting an FMLA leave. However, Administration or the Tollway's vendor may contact the health care provider to obtain a clarification of information contained in the Certification of Health Care Provider Form.

Within five (5) business days the Tollway or its vendor will notify employees of their eligibility status for FMLA. Additionally, the Tollway or its vendor will notify employees within five (5) business days after receipt of adequate medical information whether the leave is FMLA qualifying. An employee on FMLA leave should provide the Tollway with at least two (2) weeks advance notice of the date s/he intends to return to work, so the return can be properly scheduled. When FMLA leave ends, the employee will be reinstated in the same position, if available, or to a position equivalent in pay, benefits, and other terms and conditions of employment for which the employee is qualified. Employees returning from medical leave due to their own serious health condition must submit a health care provider's verification of their fitness to return to work on or before the first day they return to work. Employees who may be able to return to work with an accommodation for a disability should contact the ADA Coordinator. Employees who have exhausted their FMLA benefits and are unable to return to work may be eligible for additional leaves, and should contact Administration or the ADA Coordinator.

Pursuant to the FMLA, eligible employees may take FMLA leave for any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter or parent with the Armed Forces, or to care for a service member with a serious illness or injury if the employee is in the service member's spouse, son, daughter, parent or next of kin. Military caregiver leave provides for up to a total of 26 work weeks of unpaid job protected leave during a "single 12-month period".

8. Victims' Economic Security and Safety Act ("VESSA")

The Tollway will comply with VESSA (820 ILCS 180/1-999) and any revisions thereto. The Act provides for up to twelve (12) weeks of unpaid leave and reasonable accommodations to victims of domestic or sexual violence. VESSA entitles victims to seek medical help, legal assistance, counseling, safety planning and other assistance without penalty from the Tollway.

Full and part-time employees are eligible to request VESSA leave of up to twelve (12) weeks during any twelve (12) month period. The leave may be either intermittent or on a reduced work schedule basis. The right to take VESSA leave may not exceed the unpaid leave time permitted by the FMLA.

VESSA entitles an employee who is a victim of domestic or sexual violence or who has a family or household member who is a victim of domestic or sexual violence to obtain a leave to:

- a. seek medical attention for or recovery from physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- b. obtain services from a victim services organization for the employee or the employee's family or household member;
- c. obtain psychological or other counseling for the employee or the employee's family or household member;
- d. participate in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security;
- e. seek legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member.

When a VESSA leave is granted, the Tollway will maintain health insurance coverage for the duration of the leave. If the employee fails to return after VESSA leave has expired, VESSA allows the Tollway to recover premiums paid to maintain coverage for the employee and the employee's family during the period of the leave. If the employee's failure to return to work is due to the continuation, recurrence, or onset of domestic or sexual violence that entitles the employee to VESSA leave or other circumstances beyond the control of the employee the Tollway may require an employee to provide certification of such reason for being unable to return to work. Under such circumstances, the Tollway may waive repayment of any premiums paid on behalf of the employee or employee's family.

Employees must complete a VESSA certification form forty-eight (48) hours before beginning the leave, when possible, or within a reasonable period after the absence begins in emergency circumstances. Said certification shall include a sworn statement of the employee, as well as corroborating evidence, such as a police or court record or documentation from a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in accordance with VESSA. All information provided to the Tollway, including the fact that the individual has requested or obtained VESSA leave, shall be strictly confidential. Employees on VESSA leave are required to report to his/her supervisor on a weekly basis regarding their plans to return to work.

Under VESSA, an employee who but for being a victim of domestic or sexual violence or having a family or household member who is a victim of domestic

or sexual violence can perform the essential functions of their job may request a reasonable job accommodation. Such requests will be handled in accordance with Chapter II, Section J. Any employee who exercises his/her rights under VESSA is protected from discrimination or retaliation.

9. Military Leave

- a. A military leave of up to five (5) years is granted to all permanent employees who leave their positions to enter active military duty as that term is defined by statute. A permanent employee may be restored to the same or a similar position by making application to the Tollway within ninety (90) days after discharge or up to one (1) year from release from hospitalization continuing after discharge.
- b. Military Reserve Training and Emergency Call-up
 - 1) A full-time employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be granted leave from the Tollway for basic training and/or special or advanced training.
 - 2) To be eligible for military reserve leave or emergency call-up pay, the employee must provide the Tollway with a statement from his/her commanding officer that the leave taken was for such purpose.
 - 3) During basic training and up to sixty (60) days of special or advanced training, if employee's compensation for military activities is less than his/her compensation as a Tollway employee, the employee shall receive their regular compensation as a Tollway employee less the amount of their base pay for military service. During training, the employee's seniority and other benefits shall accrue.
 - 4) In an emergency call-up (or order to State active duty by the Governor), leave shall be granted for the duration of the emergency with pay and without loss of seniority or other accrued benefits. Military earnings for an emergency call-up must be submitted and assigned to the Tollway. The Tollway shall submit the earnings to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the Tollway shall return the difference to the employee.
 - 5) If employees serve on a regular day off, they may keep the portion of military pay received. Affected employees may elect to take

vacation time during the call out and receive both their Tollway salary and military pay.

- 6) An eligible employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be allowed annual leave for one (1) full pay period and such additions or extensions reasonably necessary to fulfill their annual military reserve obligation. During leave for annual training, if an employee's compensation for military activities is less than his/her compensation as a Tollway employee, the employee shall receive his/her regular compensation as a Tollway employee less the amount of their base pay for military service upon appropriate verification of military compensation. Leaves will be granted without loss of seniority or other accrued benefits. The employee must submit a copy of the military orders that authorize such training.

10. Blood Donation Leave

Employees responding to emergency calls for blood donations may be excused from work without loss of pay, with proper documentation and authorization from their supervisor for the required period of time. The employee must be able to present documentation to the supervisor upon request for Blood Donation Leave. In addition, the Tollway has an annual blood drive and all Tollway employees are encouraged to give blood if physically possible.

11. Paid Parental Leave Policy

The purpose of this policy is to provide paid parental leave for non-union employees for the birth or adoption of a child or children who have passed their probationary period. This provision applies to spouses, biological parents, civil union partners or those in loco parentis to the child, and is effective January 1, 2015.

Paid Parental Leave is only available after the birth or adoption of the child in the following circumstances and in the following amounts:

- a. Up to 4 weeks of paid leave to the birth mother to recover from a non-surgical delivery; or
- b. Up to 6 weeks of paid leave to the birth mother to recover from a surgical delivery; or

- c. Up to 4 weeks of paid leave for the birth of a child or children to the spouse or civil union partner of the birth mother;
- d. Up to 4 weeks of paid leave for the adoption of a child or children by the employee or the spouse or civil union partner of the employee.

Paid Parental Leave may be taken on an intermittent basis, but in no less than full day increments, as Tollway needs allow. The Leave is only available in the first 12 months following the birth or adoption of the child. If both the biological or adoptive parents, or both the birth mother and her spouse or civil union partner are employees of the Tollway, the two employees are eligible for a combined total of 4 or 6 weeks of Paid Parental Leave, whichever is applicable.

If an employee desires to take additional paid time off beyond the paid time off set forth above, Paid Parental Leave may be combined with vacation and/or sick time to allow additional paid time off from work.

In addition to Paid Parental Leave, an employee may also be eligible for leave under the FMLA as set forth in the Tollway's FMLA Policy. In the event an employee is eligible for both Paid Parental Leave and leave under the FMLA, the two leaves must be taken concurrently. For more information on eligibility for leave under the FMLA and the conditions and benefits associated with such leave, please consult the Tollway's FMLA Policy.

12. Authorized Leave Without Pay

In addition to the leaves set forth above, the Tollway provides employees authorized leave without pay ("ALWOP"). Leave will be considered and granted based on an excused absence from work for personal reasons when an employee does not have any other benefit time to utilize for the absence. ALWOP may be granted under the following conditions:

- a. Extenuating personal circumstance; or
- b. Extenuating medical circumstances for the employee's continued recovery, and s/he has no sick leave available but returns to work with a doctor's note justifying the absence on the next scheduled workday; or
- c. Work requirements permit the employee's absence without unreasonable disruption of work; or
- d. All available benefit time has been exhausted (i.e., vacation, personal, compensatory time, PTE, or other legally required leaves).

The following procedures pertain to ALWOP:

- a. Requests for 1-3 days require the Department Chief approval, and notification to Administration.
- b. Requests of four (4) days up to a total of three (3) months during a twelve (12) month period requires the Department Chief and Chief of Administration approval, if for personal reasons (non-medical, -FMLA or -ADA).
- c. Employees requiring ALWOP after exhausting all other legally required medical leaves must request approval through Administration or the department's selected vendor.
- d. If an employee is on ALWOP for more than thirty (30) days in any twelve (12) month period, the time on leave will be deducted from creditable service, continuous service seniority (if applicable) and vacation earning dates in accordance with SERS rules, unless the leave is for military or education purposes, to serve in the Peace or Job Corps, or due to occupational or non-occupational disability.
- e. An employee may be discharged for failing to return from leave within two (2) working days after the expiration of the ALWOP and no other authorized leave is available. It is the employee's responsibility to communicate with Administration regarding their anticipated return to work date. Administration will also coordinate with the using department for scheduling purposes.



Chapter 5. HOURS OF WORK

Section A. Central Administration Building Security

The Tollway is committed to providing a safe and secure workplace for all employees and business pursuits. All Tollway employees, vendors and contractors working in CA are responsible for ensuring individuals do not gain unauthorized admittance to CA and that these procedures are followed. Access to CA by Tollway employees, vendors (service providers) and contractors ("card access holders") is granted on an individual basis, is based upon operational needs of the Tollway, and is designed to promote security while serving operational needs. Any violation of this policy may result in discipline up to and including discharge.

1. Concealed Carry

Pursuant to 430 ILCS 66/1 et seq., this provision applies to all Tollway employees, contract employees and temporary employees and visitors. Concealed firearms are prohibited in all Tollway facilities, including CA, Plazas, Maintenance Sites, the Warehouse and Oases, as well as Tollway owned vehicles except for active duty sworn law enforcement officials or ISP personnel assigned to District 15. Concealed firearms will be prohibited at the Call Center facilities and in any future leased facilities. Concealed firearms will be prohibited from the parking areas of Tollway facilities, except as strictly provided under the Concealed Carry Act. This includes carrying a concealed firearm and ammunition in Tollway facilities or parking areas (except as strictly provided in the Concealed Carry Act), as well as while in the course of performing job duties or at Tollway sponsored functions. Additional prohibited behavior includes displaying, brandishing, discharging or otherwise using weapons, as well as making threats or bullying involving weapons.

The Tollway has zero tolerance for weapons policy violations. Employees are subject to termination, and any violations will be reported to law enforcement.

2. CA Access

Prior written approval from the Chief of Staff, or designee during restricted hours required.

a. Hours of Operation

- 1) CA: 7:00 a.m. to 6:00 p.m. Monday through Friday, except State holidays. CA security system is alarmed at all entrances/exits from 9:00 p.m. to 6:30 a.m. Monday through Friday and twenty-four (24) hours a day on weekends and holidays. Unauthorized use of the doors after the building is secured is prohibited. In the event of an emergency, the closest appropriate exit should be utilized.
- 2) I-PASS Customer Service Center: 7:00 a.m. to 6:00 p.m. Monday through Friday, except State holidays. Access to the I-PASS Customer Service Center for customers is limited to the east entrance. Employees are expected to follow the security procedures outlined within this policy.

b. Admittance to CA with Card Access

Hours of access to CA will be displayed on each entry. Card access holders must scan their access card on the proxy reader each time they enter or exit through security doors at the north, east or south entrance to record entry and exit times for authorized personnel, except during emergency evacuations. When a number of card access holders enter or exit the building at the same time, it is not necessary for the door to be closed before the next person scans their access card. TAILGATING THROUGH SECURITY DOORS IS STRICTLY PROHIBITED. Admittance from the garage will require use of a numeric passcode.

c. Admittance Without CA Card Access

Individuals arriving at CA without their access card (lost, misplaced, stolen, etc.) prior to 7:00 a.m. must enter from the south entrance, sign the entry log, show proper identification at the State Police window and obtain a temporary visitors pass. Individuals arriving without their access card after 7:00 a.m. must enter at the main entrance (reception desk area) and obtain a visitor's pass. Individuals who need a new access card must report to Human Resources to obtain a replacement. Any temporary identification card or visitor's pass must be worn visibly while in CA, and must be returned to the location of issuance at the end of the persons shift or when a new access card is issued by Human Resources.

Employees requiring entrance when the building is in a secured status must follow the provisions outlined below in Visitor Admittance to CA. Departments holding meetings that require numerous individuals without card access authorization at CA must make arrangements with the Department of Administration to facilitate their admittance.

d. Visitor Admittance to CA

Admittance to the I-PASS Customer Service Center is through the main entrance (east) between 7:00 a.m. and 6:00 p.m., Monday through Friday (or consistent with I-PASS Customer Service Center hours). The public has access for violation hearings and the violation payment cashier through the main entrance. The public has 24-hour access to the State Police desk at the south entrance.

Admittance to CA between 7:00 a.m. and 6:00 p.m. is through the main entrance (east). Visitors must check in with the receptionist, present a government issued ID, and obtain a visitor's pass. Visitor passes and temporary identification cards must be worn on the exterior of the visitor's clothing for the duration of the visit. Visitors refusing to wear the badge will not be permitted into the building. The visitor(s) arrival will be announced to the Tollway staff who will ensure the proper facilitation of the visit. Upon leaving the building, the visitor(s) must exit from the same door in which they entered, sign out if required, and return the visitor's pass or temporary identification card.

Visitors to CA while in secured status must use the south entrance and require pre-arranged written notification from a Department Chief approved by the Chief of Staff, or designee, which must also be on file with the Department of Administration and the State Police Desk. Written notification must include the specific date, time, employee contact information, and building areas to which the visitor(s) are authorized to access. Open-ended authorization is not permitted. State Police will follow the written instructions provided to facilitate the visitor's access. Visitors will be required to present identification at the police desk and complete a log entry. A temporary identification card will be issued and must be worn at all times while in the building. Visitors must return the temporary identification card and sign out on the log sheet upon completing the visit.

e. General Information

While CA is in secured status, from 9:00 p.m. to 6:30 a.m., all doors are alarmed and monitored at the State Police desk and Radio Room and the south entrance must be used to enter and exit. When the building is in

secured status, smoking is allowed only at the designated location outside the south entrance.

All Tollway employees, vendors and contractors working at CA are encouraged to question any person who does not have a valid access card, temporary I.D. card, or visitor's pass clearly displayed. Those without proper credentials will be directed to the main reception area on the east side, or if prior to 7:00 a.m., the south entrance State Police desk. If the circumstances of the observation require prudent caution (i.e., suspicious or irrational behavior) do not approach the subject; you must contact the State Police at ext. 5911.

In addition, each department operating within CA will appoint a supervisor responsible for ensuring that interior and exterior doors that require locking (Dock, Computer Room, etc.) are secured prior to departing each day.

f. Removal of Business Equipment or Materials

The Tollway requires authorization for the removal of certain business equipment or material from Tollway premises that is not consistent with an employee's regular duties. This written Authorization must be presented upon request.

3. Active Shooter Event

The Tollway will provide periodic training on safety procedures in conjunction with law enforcement. All employees will be required to attend training for their safety in order to be prepared to respond in the event of an incident. In the event the Tollway or an employee is faced with a situation in which an individual carrying a firearm or explosive device enters a facility and is aggressive, threatens great bodily harm, or attempts to cause great bodily harm to an individual using a firearm or explosive device, employees shall respond in accordance with the safety protocol and training provided, and if possible or appropriate, dial 5911.

Section B. Break Periods

Unless otherwise provided in a collective bargaining agreement, employees working an eight (8) hour shift are provided with two (2) work break periods of fifteen (15) minutes in length that cannot be split into smaller increments. However, with the approval of the Supervisor, the break periods and meal times can be combined. Since this time is counted and paid as time worked,

employees must not be absent from their workstations beyond the allotted break period time, which includes cigarette breaks.

Unless otherwise provided in a collective bargaining agreement, all full-time employees are provided with one meal period of thirty (30) minutes in length each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active work responsibilities and restrictions during meal periods.

Unless otherwise provided in a collective bargaining agreement, employees working less than an eight (8) hour shift shall have their breaks or mealtimes pro-rated consistent with applicable wage laws.

Section C. Timekeeping

Every employee is responsible for accurately recording time worked, via the electronic time clock. Employees must not record their time via the electronic timeclock prior to when they actually begin work or finish work each day. When employees leave the job either for personal, split shift or other purposes, they are responsible for recording their time via the electronic time clock accordingly. Time worked is the time actually spent on the job performing assigned duties. Overtime work must be approved before it is performed.

1. Supervisor's Responsibility

Each supervisor is expected to ensure that employees are present at their workstations during scheduled hours and that every absence is properly accounted for on the employee's time and attendance records accurately and approved timely. Supervisors should also ensure that employees' meal and break periods are respected.

2. Employee Responsibility

It is the employees' responsibility to approve their time records and to certify the accuracy of all time recorded within 48 hours of the close of the time period or as soon as practical. If corrections or modifications are made to a time record, both the employee and the supervisor must verify the accuracy of the changes by approving the time record. Altering, falsifying, tampering with time records, or recording time on another employee's time record, without proper authorization, may result in disciplinary action up to and including discharge. Any employee requesting a change to their time record must notify the department timekeeper via email or in writing.

Section D. Tardiness and Absenteeism

Regular and punctual attendance is an essential function of the job. Any employee arriving at his/her work or reporting station after the official start of his/her shift or workday is tardy. An employee who is unavoidably detained or unable to report on time must so advise his/her supervisor as early as possible. Repeated tardiness and/or failure to report delays are grounds for discipline up to and including discharge.

Any employee who is unable to report to work on a scheduled workday must advise his/her supervisor as soon as possible before the scheduled start of his/her shift, barring an emergency. Repeated absences or absences combined with tardiness, are grounds for discipline up to and including discharge.

An employee who is absent without leave and without properly reporting his/her absence for two (2) consecutive scheduled workdays will be subject to discipline up to and including discharge.

Section E. Overtime

Overtime compensation for bargaining unit employees is set forth in the respective collective bargaining agreements.

Overtime for non-bargaining unit employees must be pre-approved by a Department Chief, and proper documentation completed in advance unless extenuating circumstances prevent pre-approval. Compensation for overtime work may be in the form of cash or compensatory time off at the Tollway's discretion, in accordance with applicable wage laws. If compensatory time off is utilized, it shall be scheduled at the convenience of the Tollway with due consideration of the employee's preference. All cash overtime will be paid to the employee on the next regular payday from which it was earned or as soon as practicable after the compensation is calculated. All compensatory time earned within a given calendar year shall be used by June 30th of the following year. Employees may only earn up to twenty (20) days per calendar year of compensatory time. Early arrival and/or late departure from an employee's regular schedule shift for purposes of earning overtime that has not been pre-approved is prohibited, and may result in discipline up to and including discharge.

Electronic timekeeping records must be accurately and timely completed reflecting all overtime worked. All overtime for non-exempt employees will be

paid or compensatory time will be earned at the rate of one and one half times an eligible employee's hourly rate. Each department shall designate an individual responsible for the official recording of all compensatory time approved and owed to department employees, who will coordinate the appropriate usage with the Payroll Section.

Section F. Personal Time Earned (PTE)

Certain AFSCME professional employees and other non-union employees in salary grades 1-5 are eligible for PTE. Eligible employees may submit requests for PTE for every quarter hour in excess of forty (40) hours worked per week, accrual will not be automatic. The maximum amount of PTE an individual employee may earn in a given year is 120 hours. To accrue this time, you must submit the appropriate documentation within two months of the time worked. PTE must be utilized by June 30 of the following year in which it was earned. Failure to submit a request for PTE on a timely basis may result in the request being denied.

Section G. Pay Schedule

Salaried employees are paid semi-monthly on the 15th and the last day of the month, provided these days fall on a scheduled workday. If the 15th and/or the last day of the month is not a Tollway scheduled workday, the payday will be the last Tollway scheduled workday before the 15th or the last day of the month. Each salary paycheck will include earnings for all work performed through the end of the current payroll period.

Hourly employees are paid bi-weekly, every other Friday of the month. Hourly employees will receive pay for the two (2) weeks prior to their currently worked pay period.

Section H. Direct Deposit

All employees are encouraged to participate in Direct Deposit and have their pay directly deposited into their bank account by providing advance written authorization to the Payroll Section. Employees who choose not to participate in Direct Deposit may be assessed a fee of \$2.50 per paper warrant, pursuant to Public Act 97-0348.



Chapter 6. **USE OF TOLLWAY PROPERTY / EMPLOYEE RESPONSIBILITIES**

Section A. Tollway Issued Property

Employees are responsible for all property issued to them by the Tollway. These items may include, but are not limited to, the following:

- Cell phones and accessories
- Vehicles
- Equipment
- Employee Identification Badge
- Keys
- Tools
- Office Supplies
- Computer and related equipment
- Uniforms
- Protective equipment (hardhat, gloves, goggles, safety vests, etc.)
- Access cards (e.g., toll equipment, gas building access)

The Tollway may require the return of Tollway property at any time during employment, and employees must do so promptly to the proper location when asked. On or before their last day of work, employees must return all Tollway property to their supervisor. It is the responsibility of the employee's supervisor that the Returned Tollway Property Checklist is completed and returned to the Administration Department with the appropriate Tollway Property. To the extent allowed by law, the Tollway will withhold from the employee's final paycheck the cost of any items that are not returned or may bill the employee for such cost. The Tollway may also take other lawful, appropriate action to recover or protect its property.

Section B. Information Technology

In order to fulfill various compliance requirements and industry standards, (i.e., PCI etc.) the Tollway's IT department maintains specific policies on Crossroads under the IT page. Those policies are incorporated by reference into this Policy Manual. Tollway employees are obligated to familiarize themselves with those policies, and may be subject to discipline for violating those provisions up to and including discharge.

The IT Department also supports various technology resources at the Tollway for its employees to further the Tollway's business goals. The Tollway's physical and intellectual IT resources are made as widely available as necessary while maintaining the integrity, confidentiality, security and legal compliance of the IT systems.

The Tollway's IT resources are intended for authorized Tollway business only and may not be used for personal purposes. These resources include but are not limited to desktop computers, portable computers, printers, scanners, text messaging devices, e-mail services, internet access, and software. IT equipment, software and work product generated thereon belong to the Tollway. Employees have no expectation of privacy in IT equipment and software made available to them. The Tollway will monitor usage of the IT resources and its internet connections by its employees in order to meet these objectives and determine access levels and appropriate usage occurs. Access to non-business related sites may be blocked. Improper usage of any IT resources including that which violates the law, or to transmit, receive or store any communication or other information where the information or its transmission or distribution could be considered sexually explicit, profane, threatening or otherwise offensive, may result in discipline up to and including discharge.

Users must exercise caution in transmitting and storing Tollway information. Since transmission of information over networks such as the internet may become accessible to unintended recipients, it is highly recommended that restricted information be sent using data encryption methods approved by the Tollway's IT Department to ensure adequate data security.

Tollway internet connections are intended for Tollway business activities which may include research, education, and individual professional development. To the extent these activities are not specifically related to Tollway duties, prior approval from a Division Manager or Department Chief is required.

Section C. Business Travel Expenses

The Tollway will reimburse employees for reasonable business travel expenses incurred while on assignments away from their normal work location consistent with the provisions of the Travel Control Board's Guidelines when evaluating reimbursement for business travel expenses. Copies of the Guidelines are available on Crossroads or from the Finance Department.

Section D. Safety

To assist in providing a safe and healthful work environment for employees and visitors, the Tollway has established a workplace safety program. The Safety Training Section is responsible for implementing, administering, monitoring, and evaluating the workplace safety program and its success depends on each employee's personal commitment to safety. The Tollway provides information to employees about workplace safety and health issues through regular internal communications, such as training, supervisor-employee meetings, bulletin board postings, memos, or other written communications.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to an appropriate supervisor. In the case of accidents that result in injury, employees should notify their supervisor and the Tollway's third party administrator, as soon as they are medically able, regardless of how insignificant the injury may appear. The Safety and Training Division should also be notified as soon as possible when an employee has been injured. Appropriate reports should be completed and submitted to Safety Training within 48 hours of notification that an employee has been injured. These reports are necessary to comply with laws and to initiate insurance and workers' compensation benefit procedures. (Also see Chapter III Section L relating to Workers Compensation)

Employees who violate safety rules or fail to report dangerous conditions may be subject to discipline up to and including discharge. Employees should dial extension 5911 to report all emergencies, including fires and requests for ambulances.

Section E. Vehicle Operation

Many Tollway staff positions require permanent or occasional use of a Tollway vehicle to fulfill aspects of their job duties. Employees must maintain the appropriate class driver's license, and provide proof of licensure upon request. Employees shall immediately notify their Supervisor if his/her license becomes invalid, suspended, revoked or lost, or if any circumstance exists that may threaten their driver's license status. Many of these employees use a pool car or department assigned vehicle. Employees who are on the pool car list or because of their job title are automatically placed on the pool car list shall follow all policy guidelines noted in the Policy Manual or in the Tollway Vehicle Policy Manual. A copy of the Vehicle Policy Manual can be found on Crossroads Engineering page, Fleet section. Failure to follow the provisions of this manual or the vehicles manual may result in discipline up to and including discharge.

Section F. Debt Complaints

Employees are expected to meet all of their personal financial obligations and have sole responsibility for resolving debt complaints. According to the Fair Debt Collection Practices Act, a debt collector may not contact the employer regarding the debt of an employee. No record of any debt-related inquiry will be placed in the employee's personnel file.

Wage deduction summons and affidavits will be processed by the Tollway. Any employee served with a summons and affidavit shall advise the Payroll Section and shall sign the original affidavit including the date and time they were served. All copies of the summons and affidavit, as well as any other related papers, should be sent immediately to the Payroll Section for prompt, appropriate processing in accordance with the court order.



Chapter 7. **EMPLOYEE CONDUCT AND DISCIPLINE**

Section A. Employee Conduct

To ensure orderly operations and provide the best possible work environment, the Tollway expects employees to follow rules of conduct that will protect the interests and safety of both the employees and the organization. Violations of the rules of conduct may result in disciplinary action, up to and including discharge. The rules of conduct include, but are not limited to, the following:

- Arrest, indictment or conviction of a felony or misdemeanor
- Breaching bid security or procurement processes
- Breaching or enabling a breach of Tollway security
- Conducting outside employment during work hours
- Discrimination against any Tollway employee or person conducting business with the Tollway
- Excessive absenteeism
- Failure to call in when scheduled to work or as required while on an approved leave
- Failure to report to work after leave expires
- Failure to follow Tollway or Departmental policies or procedures, including safety rules
- Failure to notify Human Resources and supervisor of current contact information, including telephone number within 7 business days of a change
- Failure to cooperate or provide truthful, thorough and complete statements of any kind in any investigation, including Tollway, Police, OIG or EEO, to the extent required by law

- Falsification of any information contained on the employment application, or during any interview, claim form, or other document provided to the State or Tollway
- Falsification of insurance claims, including workers' compensation claims or FMLA
- Falsification of timekeeping, attendance or employment records
- Failure to timely report loss, suspension, revocation or restriction of license required for position
- Fraudulent request, acceptance or use of leave time
- Harassment of any person including a Tollway employee or anyone conducting business with the Tollway
- Improper use of or failure to use safety equipment
- Improper use of sick time
- Improper use of Tollway vehicle or personal vehicle for Tollway purpose
- Incompetency or inefficiency in the performance of a duty
- Inattention or failure to perform a duty
- Insubordination or other disrespectful conduct to a superior, co-worker, or customer, or vendor
- Intentional or negligent release or disclosure of confidential information
- Misuse of Tollway access cards or unauthorized entry into or on Tollway premises
- Neglect of duties
- Negligent or intentional conduct leading to damage of Tollway or customer property
- Other conduct unbecoming a Tollway employee
- Possession, distribution, sale, transfer, or use of alcohol, drugs or drug paraphernalia on Tollway premises or on duty elsewhere
- Unauthorized or unlawful possession of weapons or dangerous or unauthorized materials in the workplace (i.e., explosives)
- Property damage as a result of intentional acts
- Retaliation against any Tollway employee or person conducting business with the Tollway

- Soliciting, giving or accepting any gratuity, gift, present, reward or other thing of value in return for the performance of the employee's official duties, or as a condition of not performing such duties
- Unauthorized personal use of telephones, mail system, or other Tollway equipment
- Unauthorized personnel on job site
- Unauthorized leave
- Unsafe or improper use of equipment or vehicles
- Use of the employee's official position for personal gain
- Violation of Tollway's security
- Violation of the Tollway Code of Ethics, or other official laws (i.e., Illinois State Officials and Employees Ethics Act, Gift Ban Act, etc.)
- Violation of the dress code
- Violation of safety or health rules

Section B. Violence in the Workplace

Violent behavior poses a significant threat to the health and safety of Tollway employees and the public. The Tollway prohibits acts or threats of violence by any Tollway employee against Tollway employees, customers, visitors or members of the public. The Tollway will take disciplinary action up to and including discharge against any Tollway employee who commits an act of violence or engages in threatening or intimidating behavior, including but not limited to oral, written or electronic communications, physical force, stalking, vandalism or property destruction. The Tollway prohibits unauthorized guns or other weapons on Tollway premises.

The Tollway requires all employees to report to their supervisor any violent, threatening, or suspicious activities and will not condone any retaliation against any employee for making such a report. If the supervisor or Department Chief is not available, the employee should contact Administration for further assistance.

The Tollway may refer employees who engage in violent or threatening behavior to the Tollway's employee assistance program, in addition to any disciplinary action that may be taken against the employee.

Section C. *Personal Appearance*

Professional dress, grooming, and personal cleanliness standards contribute to the morale of all employees and are an important part of the business image that the Tollway presents to its customers and the general public. It is each manager's responsibility to ensure employees under their supervision adhere to the personal appearance requirements.

Employees are expected to present a clean and neat appearance and shall wear appropriate business attire and display their employee identification badge at all times while on Tollway property. Employees who do not adhere to the dress code policy outlined below will be sent home and directed to return in proper work attire. Under such circumstances, employees will not be compensated for the time away from work. The Executive Director may adopt a "business casual" dress code and implement other reasonable rules governing employee dress. The following dress code guidelines should be observed:

Business Casual for Men

- Dress/ Khaki slacks, collar shirts

Business Casual for Women

- Dresses, skirts, dress/ Khaki slacks, blouse/polo shirts

Unless otherwise permitted, (i.e., "jeans day") inappropriate clothing includes, but is not limited to:

- | | |
|---|---|
| • tank tops/halter tops | • jeans or jean material (shirt, skirt, or pants) |
| • shorts/cut-offs | • leggings |
| • gym wear/wind suits | • tee shirts |
| • miniskirts | • crop tops |
| • gym shoes | • flip flops (or backless sandals) |
| • any clothing in disrepair | |
| • clothing with advertisements or provocative sayings/phrases | |

Employees issued Tollway uniforms shall maintain them in a clean and presentable condition and wear the uniforms as instructed by their supervisors/managers. No employee shall modify the uniform in any fashion or adorn it with any sign or symbol associated with any organization, cause, or point of view, unless authorized by their Department Chief or the Executive Director.

Section D. Use of Phone and Email System

To ensure effective telephone communications (landline and cellular), employees should always speak in a courteous and professional manner. Employees may make personal phone calls using Tollway phones, but must keep such calls to a responsible minimum and ensure that they do not interfere with work. Audits are conducted of Tollway phone usage, and employees will be required to verify that all calls are made for business purposes, or may be asked to reimburse the Tollway for charges incurred for personal calls. The mail system (traditional and electronic mail) is for business purposes only and may not be used for personal needs, except for the occasional deposit of pre-stamped letters. Inappropriate use of the Tollway's phone or mail system may result in discipline up to and including discharge.

Section E. Use of Personal or Tollway Issued Cell or Smart Phones

Detailed policies addressing usage and data compliance are available for review on Crossroads. Generally, employees may not use personal or Tollway issued cell/smart phones, for any reason (calls, texts, etc.), while operating Tollway or personal vehicles for Tollway purposes unless they are 'hands free' or the employee is stopped at a location safe for cell phone conversations. Additionally, care in the usage of smart phones, whether personal or Tollway issued is essential to ensure that confidential or proprietary information is not improperly transmitted or compromised.

Use of the camera or video on personal or Tollway cell or smart phones is strictly prohibited unless required to document an issue relating to Tollway business. Additionally, the use of cell or smart phones in tollbooths is prohibited.

When an employee is issued a Tollway electronic device (i.e., cell or smart phone), they will be required to read and acknowledge the Smart Phone Policy which they will be provided at the time of issuance, and available for review on Crossroads at all times. Violations of this section may result in discipline up to and including discharge.

Section F. Smoking

In keeping with the Smoke Free Illinois Act and any related amendments to that Act, the Tollway intends to provide a safe and healthful work environment. Smoking is prohibited on Tollway property except in designated areas. In situations where the preferences of smokers and nonsmokers are in direct conflict, the preferences of nonsmokers will prevail. This policy also extends to e-cigarettes.

Section G. Confidential Information

The protection of confidential business information and trade secrets is vital to the success of the Tollway. The Tollway discloses various information upon request to an individual or through publication. However, certain information prior to disclosure may be confidential. Additional information may be characterized confidential in accordance with legal requirements. Employees shall not disclose or enable the disclosure of confidential information unless authorized to do so. Such actions may result in discipline up to and including discharge. Confidential information may include but is not limited to preliminary, draft or final versions of the following:

- Compensation data
- EEO investigations
- Labor relations strategies
- Pending projects and proposals
- Proprietary production processes
- Technological data and/or prototypes
- Medical information
- Customer lists
- Financial information
- New materials research
- Personnel information
- Scientific data and/or prototypes
- OIG files, materials or reports
- Social Security Numbers
- Procurement information

Section H. Outside Employment

Any employee who seeks to engage in outside employment after they are employed with the Tollway must notify and receive the written approval of their Department Chief before accepting such employment. Outside employment consists of any type of activity for which the individual actually or anticipates receiving compensation (i.e., salary, commission, hourly pay, etc.) which may be in the form of cash or check, and may or may not include or be subject to the withholding of taxes. The Department Chief's written approval must be forwarded to the Chief of Administration.

At the time of hire, new employees will be asked if they currently are engaged in employment secondary to their position at the Tollway. Appropriate forms disclosing secondary employment must be completed during new employee processing. On an annual basis, employees will be required to acknowledge on-going secondary employment (i.e., evaluation, form, memo etc.).

Outside employment must not adversely affect an employee's job performance or the employee's work schedule at the Tollway. The same performance standards will be used for all employees when evaluating the Tollway work performance and will be subject to the Tollway's scheduling demands, regardless of any outside work commitments.

Employees engaged in volunteer activities must be mindful that those activities do not conflict with their employment or give an appearance of a conflict of interest. The Ethics Officer may assist in this regard.

When involved in outside employment employees shall not:

- Use Tollway personnel or property in their outside work
- Advertise or solicit for outside work where the advertisement or solicitation makes any reference to the Tollway
- Advertise or endorse any product or service where the advertisement or endorsement includes a reference to the Tollway (whether or not any compensation is received)
- Use information obtained by reason of their employment for personal gain or advantage
- Accept any economic opportunity under circumstances where the employee knows or reasonably should know that there is a substantial possibility that the opportunity is being afforded them to influence their conduct in the performance of their official duties

- Make official decisions that are not in accordance with established statutes and Tollway policies and procedures
- Engage in secondary employment that conflicts with the provisions of the Tollway's Code of Ethics or other laws applicable to government employees

If an employee's outside employment interferes with his/her ability to meet the Tollway's job performance requirements, the employee will be asked to terminate or modify the outside employment if he or she wishes to remain employed by the Tollway. Violation of these standards may be cause for discipline up to and including discharge.

Employees who are elected or appointed to governmental positions are required to report their position to the Ethics Officer.

Section I. Solicitation and Distribution

The Tollway recognizes that employees may have interests in events and organizations outside the workplace. However, employees may not solicit or distribute literature concerning these activities during working time and in working areas. (Solely for these purposes, working time does not include lunch periods, work breaks, or any other periods in which any employees are not on duty.) Such activity is prohibited in working areas but no break areas. Solicitation or distribution of literature in the workplace by persons not employed by the Tollway is prohibited unless authorized by a supervisor, or the law.

No employee or prospective employee is required to belong, contribute, pay dues or attend any event sponsored by any political, religious, civic, or other type of organization for the purpose of being employed or as a condition of continued employment. Solicitations for political or other organizational functions are forbidden on Tollway property. Non-compliance with the above may result in disciplinary action up to and including discharge.

Section J. *Bulletin Boards*

Traditional bulletin board postings must be approved by the Chief of Administration or their designee. These bulletin boards display important information, and employees should consult them frequently for:

- Affirmative Action Statements
- Internal Memoranda
- Organization Announcements
- State Disability Insurance Information
- Unemployment Insurance Information
- Employee/Announcements/Information
- Job Postings
- Workers' Compensation Information

Section K. *Arrest, Criminal Indictment or Criminal Conviction*

1. Unless more immediate notification is otherwise required herein, any employee arrested or indicted of any crime, other than petty traffic offenses or municipal code violations, must notify his/her supervisor, complete the Mandatory Report of Arrest/Indictment form, and submit it to the Chief of Administration within three (3) business days of the arrest or indictment. This obligation may require reporting related incidents more than once if following an arrest, the employee is indicted. Failure to report any arrest or indictment may result in disciplinary action up to and including discharge.
2. Upon notification of an arrest or indictment, or if the Tollway has reasonable grounds to believe an employee has committed a crime, the Tollway will determine whether the conduct underlying the arrest or criminal indictment of an employee may be grounds for disciplinary action up to and including discharge before the conclusion of the criminal case. "Reasonable grounds" exist when the employee has been indicted or a court has found that there is probable cause to believe that the employee committed a crime. An arrest, by itself, does not constitute reasonable grounds. However, the Tollway may rely upon information contained in arrest reports, witness statements, or the employee's own statement in making employment decisions.

Additional factors the Tollway may consider include but are not limited to:

- a. If the Tollway has reason to believe that the employee's conduct is job-related,
 - b. If the Tollway has reason to believe the employee's conduct impacts job duties,
 - c. If the Tollway has reason to believe the employee is unfit to remain employed,
 - d. If the Tollway's work needs permit the employee's position to remain vacant until the employee is able to satisfy the sentence imposed. If not, the employee may be discharged so that the position may be filled.
3. If an employee is not subject to immediate suspension or discharge, the Executive Director may, at the request of the employee or designee, place such employee on indefinite leave status without pay and benefits.
4. If during the pendency of criminal proceedings, the charges are dismissed, or at the conclusion of the criminal proceeding a finding of not guilty is entered on all charges, the Tollway may return the employee to his/her position, or another position of the same classification and restore any lost pay and benefits.
5. Within three (3) business days of the conclusion of the criminal proceedings, the employee must provide the Chief of Administration with official court documentation to support the outcome of the criminal proceedings. Conviction of a crime may result in administrative action or discipline even if the crime did not occur on Tollway premises or involve Tollway property. However, prior to making any employment decision the Tollway will conduct an individualized assessment, as described in the Criminal Background policy found in Chapter II. Factors considered include but are not limited to the following:
 - a. Whether the employee timely and truthfully notified the Tollway of the arrest or indictment
 - b. The nature of the crime for which the employee was convicted.
 - c. Whether continued employment of the employee could reasonably be perceived to endanger the safety or well-being of other employees or members of the public.
 - d. Whether the employee is in a position of trust and his/her integrity may reasonably be questioned as a result of the conviction.

- e. Whether the employee has responsibility for public funds and his/her honesty or integrity may be questioned as a result of the conviction.
- f. Whether the continued employment could reasonably impair the Tollway's ability to maintain discipline and order in the workplace.
- g. Whether the employee has brought discredit upon the Tollway and his/her continued employment could reasonably erode the public's confidence in the Tollway.

After conducting an individualized assessment, an employee may be returned to his/her position, reassigned to another position of the same classification, or reassigned to a different position within the Tollway. The Tollway may restore any lost pay and benefits, but is not obligated to do so.

Section L. Theft and Misappropriation

Any employee who commits theft or misappropriation of Tollway property, participates in the theft or misappropriation of property belonging to others while on duty or present on Tollway premises, or has knowledge of such a theft or misappropriation and fails to promptly report it, may be subject to discipline up to and including discharge.

Employees who are authorized to travel or otherwise incur expenses in connection with official Tollway business must accurately report their expenses in accordance with the Travel Control Board's Guidelines and reimbursement procedures. Any abuse or knowing noncompliance with such procedures may be considered theft or misappropriation and may be grounds for discipline up to and including discharge.

In making the determination to discipline a Tollway employee for theft or misappropriation, the following factors shall be considered:

- 1. Whether continued employment of the employee could reasonably be perceived to endanger the safety of other employees or members of the public.
- 2. Whether the employee is in a position of trust and his/her integrity may reasonably be questioned.
- 3. Whether the employee has responsibility for public funds and his/her honesty may reasonably be called into question.

4. Whether continued employment of the employee would impair the Tollway's ability to maintain discipline and order in the workplace.
5. Whether the employee has brought discredit upon the Tollway and his/her continued employment would erode the public's confidence in the Tollway.
6. Whether the employee has had unexplained cash shortages as evidenced by audit reports.

Section M. Administration of Discipline

When an infraction of workplace rules occurs, any discipline imposed must be documented, shown to the employee, and signed by the employee. An employee's refusal to sign the disciplinary documentation does not prevent a supervisor from imposing the discipline, documenting the employee's refusal to sign, and noting the employee had the opportunity to review and sign it. It is the responsibility of the employee and the Tollway management personnel involved in the disciplinary action to submit copies of all disciplinary documents to Administration to be placed in the employee's personnel file. A copy must also be given to the employee.

The disciplinary action generally used by the Tollway are:

1. Oral reprimands: used for relatively minor infractions or performance problems, but written documentation must be prepared by supervisors to show an oral reprimand was issued.
2. Written reprimand: used under circumstances when an oral reprimand is insufficient or a prior oral reprimand has not resulted in corrective behavior by the employee.
3. Suspension from duty without pay: used after a reprimand has been utilized without success or when the gravity of the offense indicates more stringent initial action is required.
4. Suspension pending investigation: used when the gravity of the offense warrants immediate removal of the employee from service pending a thorough investigation. Employees will be provided an opportunity to respond to the charges before a final employment decision is made.
5. Discharge: used when other corrective measures have failed or when the gravity of the offense requires a more stringent initial action.

6. A corrective action plan, without any disciplinary suspension, also constitutes discipline and if the desired performance expectations are not met, could result in discharge.

Particularly serious or aggravated infractions may warrant departures from these steps and, in some cases, immediate discharge. The mention of discipline and listing of infractions anywhere in these policies does not limit the Tollway's right to discipline employees for any reason, whether set forth in these policies or not. All suspensions shall be without pay, unless otherwise agreed upon or provided for in a collective bargaining agreement.

Section N. Disciplinary Authority

Supervisors have the authority to give oral and written reprimands. Managers may recommend suspensions of up to thirty (30) days, but each suspension must be approved by a Department Chief. Any suspension in excess of thirty (30) days requires approval by the Department Chief and the Chief of Administration. The discharge of an employee requires the approval of the Department Chief, Chief of Administration and the Executive Director.

Section O. Appeal of Discipline

Employees who are not covered by a collective bargaining agreement may seek review of any disciplinary action other than an oral or written reprimand within seven (7) business days of the notification of the discipline.

To appeal disciplinary action:

1. The employee must notify his/her Manager or Department Chief in writing of his/her disagreement with the discipline imposed and provide the basis for the disagreement.
2. An employee's job status, security, working conditions, or relationship with management will not be jeopardized because the employee has appealed a disciplinary action.
3. Employees will be allowed reasonable time during working hours to present their appeal to the supervisor above the level of the supervisor who imposed the discipline, with no reduction of pay.

4. The employee will be notified in writing of the decision regarding the outcome of the appeal.
5. If the appeal is not resolved to the employee's satisfaction, the employee may present a memo setting forth the basis for the appeal to the next higher level of management within three (3) business days. The request should set forth a thorough description of the alleged infraction, the Tollway's response, discipline imposed, and the outcome of the initial appeal. If the appeal is again not resolved to the employee's satisfaction, the employee may submit an appeal in writing to the Executive Director, or his/her designee within three (3) business days. A final written response will be provided to the employee within 30 days.

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Chapter 8. **DRUG AND ALCOHOL POLICY**

Section A. General Provisions

The Tollway is committed to providing a safe, efficient, and productive work environment for all employees and the public. Using or being under the influence of unauthorized controlled substances or illegal drugs or alcohol on the job may pose significant health and safety risks to the employee, co-workers or the public. Employees on Tollway premises or conducting Tollway related business shall not use, possess, distribute, sell, or be under the influence of alcohol, unauthorized controlled substances or illegal drugs.

Employees using legally prescribed medication that may impair the performance of essential job functions effectively and in a safe manner must provide Administration documentation from the licensed medical practitioner who prescribed a controlled substance that the substance will not adversely affect the employee's ability to safely perform the essential functions, including operating a commercial motor vehicle. This documentation shall remain with other medically confidential employee materials in Administration.

The Tollway will follow the U.S. Department of Transportation (USDOT) standards for CDL holders and employees in safety sensitive positions relating to drug and alcohol testing. Employees who must possess a CDL to perform their jobs or are employed in safety sensitive positions are subject to all applicable USDOT regulations as well as any Tollway policies regarding use of drugs and alcohol. The Tollway will pay for the initial testing under any section of this policy. Employees are responsible for the cost of testing a split sample if they so request the additional testing. Expenses for return to work testing including random follow-up tests, are also the employee's responsibility.

This Alcohol and Drug Policy does not limit management's discretion to discipline employees in connection with any other disciplinary infractions associated with the drug and/or alcohol use by the employee. Employees with questions about the Tollway's Alcohol and Drug Policy or issues related to drug or alcohol use in the workplace should contact their supervisor or Administration.

Section B. Medical Marijuana

Effective January 1, 2014, the State of Illinois began a pilot program that allows registered qualifying patients with certain debilitating medical conditions to obtain a prescription for medical cannabis or a medical cannabis infused product. The Tollway will comply with state and federal regulations regarding medical marijuana. The stricter provision will generally be controlling. At the time of the adoption of this Policy Manual, USDOT regulations do not permit a CDL holder to retain their license if they test positive for marijuana for which a prescription has been issued.

Section C. Responsibilities

Administration is responsible for the administration, audit, and review of these policies, including procurement and approval of the laboratory testing facility and testing procedures in accordance with USDOT regulations. Supervisors are responsible for monitoring and carrying out the Drug and Alcohol Policy for employees within their division/department.

Section D. Reasonable Suspicion Employee Testing

1. All Tollway employees are subject to drug and alcohol testing when there is reasonable suspicion that an employee is under the influence of alcohol or is using an unauthorized controlled substance based on objective facts and circumstances which may include:
 - a. A pattern of abnormal conduct or erratic behavior
 - b. A dramatic decline in work performance
 - c. Excessive sick leave usage
 - d. Odor of alcohol or drugs
 - e. Information that an employee may be under the influence of alcohol or a controlled substance provided by reliable and credible sources that is independently corroborated by a supervisor, District 15 sworn officers, or EAP staff

- f. Difficulty walking, slurred speech, needle marks, glazed stare or other characteristics consistent with being under the influence of alcohol or a controlled substance
 - g. Direct observation of an employee's use of alcohol or a controlled substance or drug paraphernalia and/or observations indicate mental and/or physical impairment
 - h. Possession of alcohol or a controlled substance
 - i. Credible information that an employee has been referred to or has self-referred to a substance abuse rehabilitation center
- 2. An employee who believes there is reasonable suspicion that another employee is under the influence of alcohol or a controlled substance should report his/her suspicion to his/her supervisor. When a third party informs the Tollway that an employee appears to be under the influence of alcohol or a controlled substance during working hours, an investigation will be conducted.
- 3. If a supervisor believes that there is reasonable suspicion that an employee is under the influence of alcohol or a controlled substance, s/he must make a recommendation for testing the suspected employee to their immediate supervisor. If the immediate supervisor concurs with the recommendation for testing, the employee will be notified as soon as possible that a urine specimen or another appropriate test will be required as provided for below. The evidence supporting the recommendation for testing will be released to the employee or his designated representative upon the employee's written request. Collective bargaining agreements may establish additional rules applicable to Tollway employees represented by a union.

Section E. Random Testing

Random alcohol testing is conducted for not less than 10% of all employees in the pool of safety-sensitive positions. Testing dates and times are not announced and will be reasonably spread throughout the year.

Random drug testing is conducted for not less than 50% of all employees in the pool of safety-sensitive positions. Testing dates and times are not announced and will be reasonably spread throughout the year. However, the percentage of employees required to undergo random testing can be modified by the FMCSA Administrator based on test results within the industry. The rates will be published on an annual basis in the Federal Register. The testing rate for 2016 is 10% random alcohol testing and 25% random drug testing for safety sensitive positions.

The employee's refusal to sign a release and consent form and/or refusal to take the alcohol/drug test shall be treated the same as a positive test result. An employee who leaves the premises after being advised by his/her supervisor of the need for drug and/or alcohol testing is insubordinate and considered to have refused to take the test.

Section F. Post-Accident Testing

All employees must immediately report any type of vehicle accident that results in any type of damage to their supervisor. For reporting purposes, an accident means an incident where damage of any kind resulted to or from a Tollway vehicle, or personal vehicle for Tollway purposes, while operated by a Tollway employee.

All employees will be required to submit to post-accident drug/alcohol testing consistent with USDOT guidelines found in Section 382.303(a), (b) or (d) or as revised. Failure to report an accident or submit to post-accident testing will be viewed as a serious infraction and may result in discipline up to and including discharge.

During a snow/ice storm, the General Manager of Maintenance and Traffic may defer immediate post-accident testing to post-accident testing that is consistent with the USDOT guidelines found in Section 382.303(a), (b) or (d), or as revised, due to operational necessity. USDOT guidelines require post-accident testing if the accident involved a fatality, bodily injury requiring medical treatment away from the scene, if either vehicle is required to be towed from the scene or if s/he was issued a traffic citation. A test for alcohol

must be administered within eight (8) hours and a test for drugs must be administered within thirty-two (32) hours of an accident.

Section G. Testing Process

In any situation where reasonable suspicion, random or post-accident drug/alcohol testing is required, the testing will be administered as set forth within the USDOT regulations, this Chapter, or other applicable laws or policies. Generally, the processes are as follows:

1. The employee will be escorted by the supervisor to a designated collection facility where a urine specimen and/or a breath alcohol test will be administered by a qualified medical professional.
2. The employee will sign a release and consent authorization form for the alcohol/drug testing information to be released to the Tollway. A copy of this form will be provided to the employee's bargaining unit if the employee so designates in writing.
3. The collection facility personnel, after securing the employee's specimen, will seal the container(s) and transport it/them by overnight express to the Tollway's designated laboratory. Chain of custody documentation will be kept by the collection facility, doctor and/or laboratory from the collection stage to the destruction stage. Test results will be submitted to Administration, where they shall be maintained as confidential.
4. The employee shall advise the medical staff or doctor taking the specimen of any prescription and/or over the counter drugs currently being used or used in the last thirty (30) days. Written proof of prescription medication may be required. Such information shall be collected and submitted to Administration and maintained as confidential.
5. The employee's refusal to sign a release and consent form and/or refusal to take the alcohol/drug test shall be treated the same as a positive test result. An employee who leaves the premises after being advised by his/her supervisor of the need for drug and/or alcohol testing is insubordinate, and considered to have refused to take the test.
6. Upon completion of the test, the employee shall be transported to his/her residence. Under no circumstances shall an employee suspected of being under the influence of alcohol or drugs be allowed to

leave the work site or the test site driving his/her personal or a Tollway vehicle. If the testing procedure causes the employee to exceed the hours of his/her normal work day, those additional hours shall be eligible for overtime compensation in accordance with appropriate wage laws or the appropriate collective bargaining agreement.

7. The specimen will be tested by a qualified laboratory that has technical expertise and proficiency in blood alcohol and/or urine drug testing. A positive test reading will automatically call for a follow-up confirmation test using Gas Chromatography/Mass Spectrometry ("GC/MS") techniques.
8. Employees shall remain on paid status until the results are received by the Tollway. If the test is confirmed positive, the employee will be notified and will be given the opportunity to present evidence and/or information that the positive test resulted from prescribed or over-the-counter drugs, or that special circumstances may have affected the test results. The employee may request the split sample be tested at his or her expense. If further testing is positive and/or special circumstances are not found to have affected the test results, the employee will be subject to discipline in accordance with the provisions of this Chapter and any other applicable rules of this policy or collective bargaining agreement.
9. The Tollway reserves the right to require employees at a work site to submit to drug and/or alcohol testing in the event drugs and/or alcohol are discovered at the work site.

Section H. Safety Sensitive Activities and Positions

Safety sensitive positions include those jobs associated with driving a commercial motor vehicle, loading or unloading a commercial motor vehicle, performing a commercial vehicle inspection, and anyone who assigns drivers to commercial vehicles and any time spent in a state of readiness to operate the commercial vehicle. Tollway employees performing such activities include, but are not limited to, those in the following job classifications:

Position	Department
Equipment Operator/Laborer	Roadway Maintenance
Welder	Roadway Maintenance
Mechanic	Fleet Maintenance
Mechanic (Lead)	Fleet Maintenance
Mechanical/Electrical	Building Maintenance

Position	Department
Sewer and Water Technician	Building Maintenance
Road Electric	Building Maintenance
Sign Maker/Hanger	Sign Shop
Money Truck Driver	Cash Handling
Telecommunicators	Dispatch
Call Takers	Dispatch
Antenna Specialist	IT
Messenger Driver	Procurement

Section I. Test Results

All test results and related documentation will be treated confidentially and shall not be utilized by the Tollway for any purpose other than employment-related matters. No test results shall be released without the written consent of the employee or as otherwise required by law. Test results will be kept confidential within Administration and in accordance with HIPAA and other applicable laws. Blood alcohol levels listed below will result in the following actions. Results that are lower than indicated will be considered negative. They shall be reported to the employee as such, and shall not be retained in the employee's file.

- CDL/Safety Sensitive: 02% Blood (i.e., grams/dl) removed from duty for 24 hours
- CDL/Safety Sensitive Employees: 04% Blood (i.e., grams/dl) removed from duty until SAP evaluation
- Other Employees: 08% Blood (i.e., grams/dl) removed from duty until SAP evaluation

Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs listed below, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

- Marijuana (THC metabolite)
- Cocaine
- Amphetamines
- Opiates (including heroin)
- Phencyclidine (PCP)

Section J. Discipline for Positive Test Results

The discipline described below for positive drug/alcohol test results do not preclude the Tollway from imposing or accelerating discipline up to and including discharge as a result of conduct by the employee that may have given rise to a drug/alcohol test. In a situation where multiple infractions of Tollway policy occur, one of which was a violation of this drug and alcohol policy, the Tollway shall not be restricted to discipline only for the drug and alcohol infraction. If the severity of the incident giving rise to the positive test results warrants, the Tollway reserves the right to use appropriate discipline, up to and including discharge. However, violations solely of the drug and alcohol policy may be grounds for discharge.

1. Safety Sensitive Positions

- a. All employees in safety sensitive positions who have less than eighteen (18) months seniority and record a positive test for alcohol or a controlled substance as described herein while on duty, may be given the opportunity to resign or will be discharged if they do not take such opportunity.
- b. Employees who have more than eighteen (18) months seniority who perform safety sensitive activities and record a positive test for alcohol with BAC of .02 or more shall be removed from duty for 24 hours, if the BAC is .04 they shall be removed from duty until a SAP evaluation is completed. A positive test for drugs while on duty, shall result in a suspension, without pay, for a minimum of a thirty (30) day period. During that time period the employee must be evaluated by a licensed Drug and Alcohol Counselor and enroll in a treatment program prescribed by said counselor.
- c. **Return to Work Testing:** In order to be returned to work, the employee must produce proof of compliance with the prescribed program from a licensed SAP, as well as test results indicating a negative test result from a licensed testing facility. The employee will be required to sign a return to work agreement acknowledging the continuing aftercare requirements and must comply with any and all prescribed aftercare. Failure to do so will result in discipline, up to and including discharge.
- d. **Follow Up Testing:** The employee will be subjected to a minimum of six (6) random follow up tests for alcohol or drugs during the first twelve (12) months after the return to work as determined by the SAP. Follow-up tests are unannounced and the financial responsibility of the

employee. Follow-up testing may be extended for up to 60 months following return to work at the discretion of the Tollway.

- e. An employee with more than eighteen (18) months seniority will be automatically terminated if s/he records a second positive test either for alcohol with a BAC of .02 or more, or for drugs. The Tollway may accept the employee's resignation.

2. Non-Safety Sensitive Positions

- a. All employees who have less than eighteen (18) months seniority and record a positive test for alcohol or a controlled substance as described herein while on duty, may be given the opportunity to resign or will be discharged if they do not take such opportunity.
- b. All employees who have more than eighteen (18) months seniority who record a positive test for alcohol with a BAC of .08 or more, or who record a positive test for drugs while on duty, shall be placed on suspension, without pay, for a minimum thirty (30) day period. During that period of time, the employee must be evaluated by a licensed Drug and Alcohol Counselor and enroll in any treatment program prescribed by said counselor.
- c. Return to Work Testing: In order to be returned to work, the employee must produce proof of a negative test result and proof of compliance with the prescribed program from a licensed SAP. The employee will be required to sign a return to work agreement acknowledging the continuing aftercare requirements and must comply with any and all prescribed aftercare. Failure to do so will result in discipline, up to and including discharge.
- d. Follow up testing: The employee will be subject to a minimum of six (6) random follow up tests for alcohol or drugs during the first twelve (12) months after the return to work as determined by the SAP. Follow up tests are unannounced and the financial responsibility of the employee.
- e. An employee with more than eighteen (18) months seniority who records a second positive test either for alcohol with a BAC of .08 or more or for drugs will result in automatic termination of employment. The Tollway may accept the employee's resignation.

Section K. Employee Assistance

The Tollway fully supports EAP and encourages employees who have a substance abuse problem to seek its confidential services. The EAP will make referrals to appropriate treatment and rehabilitative facilities. All discussions with an EAP counselor will be held in strict confidence. However, knowledge of admission to a treatment program constitutes reasonable suspicion for purposes of drug and alcohol testing and may result in such testing under the provisions of this chapter. Admittance to the EAP does not excuse employees from discipline for work rule violations.

DRAFT



Chapter 9. **INSPECTOR GENERAL AND CODE OF ETHICS**

Section A. Inspector General

The Office of the Inspector General (OIG) provides independent oversight essential to maintain public trust in the Illinois Tollway. The mission of the OIG is to promote effectiveness and efficiency in Tollway administration and operations by promoting integrity and accountability of the Tollway Board, Tollway employees, the Tollway contractors and vendors. In furtherance of its mission, the OIG works to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement. The OIG does this by conducting objective and thorough administrative and criminal investigations of alleged violations of laws, rules or regulations, and gross or aggravated misconduct or mismanagement, and by reviewing Tollway procedures and practices.

All Tollway board members, officers, employees and vendors have a duty to cooperate with OIG investigations, and the OIG shall have access to all Tollway information and personnel necessary to conduct its investigations. Individuals should contact the OIG with information or questions regarding possible waste, inefficiencies, fraud, corruption, mismanagement, and misconduct. The identity of individuals providing information or reporting possible or alleged misconduct to the OIG will be kept confidential to the extent allowable by law. OIG investigations are confidential; consequently, complainants are not normally apprised of the progress of investigations or reviews and may not be informed about the disposition of an investigation or review. In addition, in order to maintain the integrity of its processes, the OIG will neither confirm nor deny the existence of an investigation or review prior to final disposition.

The OIG Toll Free Hotline is 866-786-5544. Further information about the OIG and other ways to report fraud, waste, abuse, corruption, misconduct, and mismanagement is on the Inspector General Crossroads page and the Tollway website. Additional rules governing the OIG can be found in the Toll Highway Act 605 ILCS 10/8.5 and 2 IAC Section 3430, et seq.

Section B. Reporting Fraud, Waste, Abuse, Corruption, Misconduct and Mismanagement

Anyone with information about fraud, waste, abuse, corruption, misconduct and mismanagement relating to Tollway employees, officials or vendors should report it to OIG. The OIG Toll Free Hotline is 866-786-5544. Such reports relate information that they reasonably believe evidences, on the part of another Tollway employee or agent; (i) false or fraudulent behavior; (ii) the violation of any law; (iii) dangerous, wasteful, negligent or abusive behavior, or (iv) misconduct or mismanagement. The Tollway will not disclose the identity of an employee who reports such information in confidence except with the consent of the employee or as required by law to support the prosecution or discipline of the wrongdoer(s).

Employees who report or disclose information in good faith, consistent with this chapter and applicable law, will not be threatened, harassed, disciplined, demoted, retaliated against or discharged in reprisal for having done so.

Any employee, however, who knowingly makes a false claim or report, may be subject to discipline up to and including discharge. Any employee suspecting fraud, corruption, or mismanagement should contact the OIG or to any other appropriate investigatory body.

August 27, 2018

To: Kevin Artl
COO, Illinois Toll Highway Authority

From: Rich Raczynski
Former Chief Engineer, NJTA

Subject: Illinois Tollway QBS Process Review

Having reviewed the Illinois Tollway QBS procedure and related documentation and the Chief Engineering Officer presentation to the ad-hoc committee, I conclude that the Illinois Tollway is following proper QBS procedures, following industry standard. Regardless of the potential conflict, if the process is correctly followed without undue influence, the appropriate outcome will result. A strong process helps ensure consistency in output.

Suggestions for Consideration

The scoring system as presented is fairly complex. And while I understand the intent of the tier system and agree it provides multiple levels of review and gathering of input, it could be simplified and slightly more transparent if that is a goal. Within that context, a few small modifications to possibly consider:

- Each evaluation criteria can be assigned a weight as well as a point value to ensure a fair review with an emphasis on the most significant criteria
- Coming out of tier 1 review, The Project Manager could take the top three highest scores and present the recommendation to the Chief Engineering Officer
- The Chief Engineering Officer would have the right to ask questions of the committee and then present the final recommendation to the Executive Director
- The final selection committee should consider ranking/scoring the considered proposals as opposed to a simple vote
- Board members should receive the recommendation of the committees as opposed to being involved in selection in any way
- A software program to analyze the value of the work each consultant under consideration is currently obligated for with the Tollway could also be helpful in evaluating the selection

The press will never understand the consultant selection process. They will continue to focus on low bids. Perhaps a short presentation at a future public meeting that explains the process is warranted for educational purposes.

Mr. Chairman, Ladies and Gentlemen of the Committee

Tollway, as a construction agency, conducts procurements governed by both the Illinois Procurement Code and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act or QBS for short. The procurement of supplies and services to run the agency and of contractors and materials to build and maintain the roads falls under the Procurement Code. The selection of engineers to design those roads falls under QBS.

QBS differs from other procurement methods in that the award is not to the low priced or best value offer. The Act reads that the state will "...procure these services on the basis of demonstrated competence and qualifications," and "negotiate contracts at fair and reasonable prices".

The federal government follows a similar practice of awarding contracts for architects and engineers to the best-qualified vendor as outlined in the Brooks Act. One does not necessarily want the cheapest architect to design our buildings or the least expensive firm to engineer our roads and bridges.

While the CPO has all procurement authority under the Procurement Code, we do not believe that the CPO has authority for procurements conducted pursuant to the QBS Act. Our involvement in QBS procurements is limited to publication of the solicitation and award notice to our public bulletin and facilitation of the review and processing of financial and conflict of interest disclosures.

The Financial and Conflict of Interest disclosures for subcontractor Morreale Communications were submitted to our office July 5, 2017. The document disclosed the relationship of the owner to a State Representative. This is not a prohibited conflict according to a legal opinion issued by the Legislative Inspector General in 2013, because a subcontractor has no direct claim on the funds the State agency has agreed to pay the prime vendor, thus failing the test of having a direct pecuniary interest.

Similarly, the award of a contract for Construction Corridor Manager Services to Omega & Associates, Inc. underwent a Financial and COI disclosure review by both Tollway and our office. The relationships between members of the Tollway board and the vendor were not disclosed as these types of relationships are not required by law to be disclosed.

After reports of the circumstances surfaced, the CPO became aware of the effort by Representative Harris to address the identification of these types of conflicts. Our office assisted with HB 4217 that adds language prohibiting a business from making donations to any charity where a member of a board, commission, or authority is also a board member, officer or employee of the charity unless that person with the conflict recuses herself or himself from any decision regarding approval of the contract. It also calls for the publication of any conflict identified under Section 50-13 or 50-35 of the Code.

I am happy to answer any questions the committee has.