



## **OFFICE OF THE INSPECTOR GENERAL** *Illinois State Toll Highway Authority*

### **FREQUENTLY ASKED QUESTIONS**

#### 1. What is the function of the Tollway OIG?

The OIG was created by statute to provide independent oversight of the Tollway. OIG's mission is to foster effective and efficient Tollway administration and operation and we do that by promoting integrity and accountability through our investigations and reviews. OIG has a broad statutory mandate to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement, unlawful political discrimination and misconduct. (605 ILCS 10/8.5) The OIG conducts investigations and reviews, and issues findings and recommendations to the Tollway and Tollway Board of Directors.

#### 2. How is the OIG independent from the Tollway? Why does that matter?

The Inspector General is appointed by the Governor and must be confirmed by the State Senate to a 5-year term. The Inspector General can only be removed from office for cause and only by the Governor. The OIG has its own budget which, by statute, is required to be adequate to support an independent and effective office. The Inspector General has sole authority for organizing the OIG and hiring staff.

By law, neither the Inspector General nor any OIG employee may be actively involved in the affairs of any political party or political organization during their employment. In addition, for one year after leaving the OIG they may not become a candidate for elected office, hold any elected public office, or hold an appointed judicial office.

The OIG's independence is essential to maintaining public trust in the Illinois Tollway. It helps to ensure unbiased investigations and reviews that are free from political or other pressure or influence. The OIG's role is to provide objective fact finding and analysis and it must have the independence and tools necessary to fulfill that important role.

#### 3. Who can the OIG investigate?

The OIG has jurisdiction over Tollway officers, employees, vendors, subcontractors and others doing business with the Tollway.

#### 4. What sort of things do you investigate?

The OIG has the authority to investigate a broad spectrum of topics, including: fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, violations of law, rules or regulations,

abuse of authority, any substantial or specific danger to the public health and safety and can review hiring and employment files to ensure compliance with *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), and all applicable employment laws.

Common types of fraud schemes include: bid rigging, conflicts of interest, Disadvantaged Business Enterprise fraud, kickbacks, theft, product substitutions, fraudulent billing/invoicing, bribery, and falsifying quality control testing, daily logs or other construction management documentation.

#### 5. What sort of things should I report?

Anyone with information about fraud, waste, abuse, corruption, misconduct and mismanagement relating to Tollway employees, officials or vendors should report it to OIG.

Your complaint must involve the Tollway in some way; we do not have the authority to investigate complaints involving roads maintained by the Illinois Department of Transportation (IDOT), or county or municipal roads. You should report anything that you think is not right, creates safety concerns, or that you believe violates a law, rule, regulation or policy.

**NOTE:** OIG does not have jurisdiction to resolve Toll violations or fines or address IPASS account problems. Concerns about Toll violations, fines or other issues related to IPASS accounts can only be addressed through Tollway Business Systems Customer Service. We refer all such reports to Customer Service. If you have concerns about toll violations and fines, or IPASS account issues, you should contact Customer Service directly at (630) 241-6800 extension 6913.

#### 6. How do I report concerns to the OIG?

There are several methods to report concerns to the OIG:

Submit a confidential online form, and any attachments, here:

<https://oigistha.formstack.com/forms/reportconfidentialcomplaint>

This form will be encrypted and sent directly to the OIG.

Call our Hotline 866-786-5544, (messages received after business hours will be returned the next business day)

Provide a written description of your concern that includes as much detail as possible such as names, dates, times of events, and witnesses.

By mail: Office of the Inspector General, Illinois Tollway  
2700 Ogden Ave, 3NE  
Downers Grove, IL 60515

By Facsimile: 630-795-7661

Schedule an appointment with an OIG Investigator by calling (630) 241-6800 Ext. 1300

7. Do I have to provide my identity when contacting the OIG?

No. The OIG accepts anonymous complaints. However, anonymous complaints that lack sufficient detail can be very difficult to investigate and may result in a decision not to pursue the allegation(s). The identity of any cooperating individual will be closely protected and will not be revealed without your permission, unless otherwise required by law.

8. Could I lose my job for filing a complaint?

No. Executive Order 2016-4 expressly prohibits any form of retaliation against state employees who raise genuine concerns about unethical, inappropriate or illegal behavior. In addition, no state employee shall retaliate against any person for communicating with the OIG or cooperating with an OIG investigation or inquiry. Any Tollway employee who knowingly files a false complaint or who files a complaint with reckless disregard for the truth or falsity of the facts underlying the complaint may be subject to discipline.

9. How does the OIG initiate an investigation or review?

The OIG opens investigations and reviews on its own initiative and in response to reports or complaints it receives (*See Q 6 above*). Complaints are assessed to determine the most appropriate next step. Factors that impact the OIG's determination include: the significance of the allegations when measured against the OIG's available resources, workload, and priorities, the credibility of the source and the information provided, and the likely impact of a review or investigation.

Following an assessment of the allegation, four actions may be taken: (a) open an investigation or review, (b) open a preliminary investigation, (c) refer the matter to the appropriate Tollway department, another Inspector General, or the appropriate federal, state or local law enforcement authorities for investigation or other appropriate action, or (d) decline to investigate due to such things as: lack of jurisdiction, expired statute of limitations, inability to independently verify essential facts, or lack of available investigative resources, etc.

10. What are possible outcomes of OIG investigations?

OIG conducts administrative and criminal investigations. At the conclusion of a formal investigation, the assigned Investigator will make a recommendation as to disposition of the matter. If reasonable cause exists to believe that a violation has occurred, the matter is sustained. The Inspector General will review the assigned Investigator's recommendation and materials, discuss the matter with the investigative staff and make the final determination.

In sustained cases, the OIG will issue a summary report of investigation (SRI). An SRI includes a description of the allegations pertinent to the investigation, a description of any alleged misconduct discovered during the investigation, recommendations for any corrective or disciplinary action to be taken, and any other information the Inspector General deems relevant to the investigation or the resulting recommendations.

By statute, sustained administrative investigations are reported to the Executive Director and the Chairman of the Board of Directors, along with recommendations for disciplinary or other administrative remedy, including policy or program changes. Criminal investigations may result in a complaint or indictment if the appropriate law enforcement entity determines that there is sufficient evidence establishing probable cause of a violation of a criminal statute. An arrest may result from a complaint or indictment.

11. How long does it take to complete an investigation or review?

The OIG is committed to conducting thorough investigations and reviews in a timely manner. A number of factors may impact the length of time it takes to complete this process, including the nature of the allegation, the number of interviews required/documents analyzed to identify facts, the availability of resources, the degree of cooperation, the complexity of the report, etc.

12. If I file a complaint, will I be told what happens with the investigation?

No, strict statutory provisions restrict the release of information about investigations.

However, information about completed investigations may become public. For example, if the an investigation results in a sustained finding (see Q 10 above), then a summary of the investigative findings and final disposition of any OIG recommendations (without confidential or personal information) is provided in semi-annual Summary Activity Reports that are published on our webpage in March and September.

In addition, if discipline of 3 days or more occurs as a result of an SRI, then it will be published to the OIG website with appropriate redactions as required by statute. The OIG also has authority to publish other reports.

13. What can Tollway employees expect if interviewed by OIG?

It is common for the OIG to conduct interviews to develop background, determine facts, or confront alleged wrongdoers. OIG investigations are conducted in accordance with the United States Constitution, the Illinois

Constitution, federal law, state law, applicable labor agreements, as well as its own internal policies and procedures.

Witnesses are those who provide information and against whom formal action is not reasonably contemplated (such as administrative or criminal sanctions). Subjects are those against whom formal action (such as administrative or criminal sanctions) might potentially be recommended.

Prior to the start of a formal OIG interview, OIG investigators provide appropriate advisements (i.e. administrative/compelled or criminal/voluntary) to the interviewee from a pre-printed form and ask that the interviewee sign the form acknowledging that they have read and understand these advisements. These advisements are based on case law and collective bargaining agreements.

Administrative investigations involve violations of rules, policies/procedures or acts that result in waste or inefficiency, for which an adverse finding could result in an administrative sanction (including discharge). In such cases the interviewee will be advised that they have a duty to cooperate (which includes the duty to provide complete and truthful answers), and that any responses may not be used against them in a subsequent criminal prosecution. Refusal to answer questions, lying or giving intentionally misleading answers can be deemed to be a failure to cooperate, which may result in an OIG recommendation for administrative sanction (including discharge).

Criminal investigations may involve violations of municipal, state, or federal law, and could result in criminal action against the subject. In such cases, subjects who have been advised that the interview is voluntary may refuse to answer questions on the basis of their Fifth Amendment right against self-incrimination. Refusal based on the Fifth Amendment right cannot be used by the OIG as the basis for a recommendation for administrative sanction or disciplinary action. Any statement or information provided may be used in a subsequent criminal prosecution or as the basis for administrative or disciplinary action against the subject.

14. Am I entitled to representation at an OIG interview?

If you are a Tollway union employee and the subject of an OIG investigation, you have the right to union representation during an interview. The OIG also permits the subject of an investigation who is not a member of a union to have his/her personal attorney present during an interview at their expense. Other interviewees may request to have their personal attorney present. Requests for union or attorney representation must not unduly delay an OIG interview.

A union representative or private counsel may not answer questions and may not obstruct the interview. Employees will be permitted to take reasonable breaks to consult with their representative. Representatives may be permitted to clarify questions and may provide additional information at the conclusion of the interview. If the interviewee elects to proceed without a union representative and/or attorney present, the employee is asked to sign a waiver indicating that fact.

15. Can an interviewee record an OIG interview?

No, OIG interviews are considered private conversations, and may not be recorded without consent of all parties.

OIG policy requires investigators to request consent of the parties to record all interviews. Prior to the interview, the employee is asked if he/she will consent to do so. In the alternative, OIG may elect, in its discretion, to utilize an independent, certified court-reporter to memorialize or document the interview. In that instance, the employee's consent is not required. Requests by an interviewee for a copy of their written statement or recorded interview must be made in writing. The requests will be reviewed by the Inspector General and a determination will be made on a case-by-case basis.

16. Can I provide additional materials after I have been interviewed?

Yes, if an interviewee wishes to provide additional information or documentation to the OIG following an interview, he or she may submit such materials to the OIG for inclusion with the investigative file. In such cases, the person is advised to maintain a copy of whatever materials he or she provided to OIG.

17. Who is obligated to cooperate in an OIG investigation?

The Toll Highway Act mandates that all Tollway Board members, officers and employees must cooperate with the OIG in any investigation undertaken pursuant to the Act. Failure to cooperate includes intentional omissions knowing false statements. Failure to cooperate could provide the basis for disciplinary action up to and including discharge. Additionally, the Tollway's contracts require cooperation in any investigation or request for information.