

**ILLINOIS STATE TOLL HIGHWAY  
AUTHORITY**

**OFFICE OF THE INSPECTOR GENERAL**

**Summary Activity Report**  
**FOR THE TIME PERIOD**  
**April 1, 2013 through September 30, 2013**

**James W. Wagner**  
**Inspector General**

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## OFFICE OF THE INSPECTOR GENERAL

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

### SUMMARY ACTIVITY REPORT FOR APRIL 1, 2013 – SEPTEMBER 30, 2013

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

**From:** James W. Wagner  
Inspector General

**Date:** September 30, 2013

**Re:** Office of the Inspector General Summary Activity Report for the Period Ending September 30, 2013.

### INTRODUCTION

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

*(m) "The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly."*

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

## **MISSION/JURISDICTION**

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

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

## **INVESTIGATIONS**

The OIG now has one Deputy Inspector General, one Senior Investigator, one Investigator and one Administrative Assistant in our Department and will seek to hire a new Investigator/Auditor. In August, 2013 The Deputy IG and Investigator attended training and became Certified Fraud Examiners (CFE’s). The Senior Investigator had completed the CFE training last year. The Inspector General, Deputy IG and Senior Investigator have also completed Certified Inspector General and Certified Inspector General Investigator training.

The Department also worked closely with the Tollway Information Technology (IT) Department to obtain a separate computer business system for the OIG. This work resulted in the completion of the purchase and installation of a new system dedicated solely to the work of the OIG in an encrypted format for security and confidentiality of the investigations. All previous investigations have also been moved to a separate secure encrypted server utilized and accessed only by the OIG.

## **INVESTIGATIONS RESULTING IN DISCIPLINE:**

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

Pursuant to these directions, this office is reporting the following investigations for the period of April 01, 2013 – September 30, 2013:

#### **IG-12-0024**

On November 19, 2012, the OIG received an anonymous letter alleging violations of Tollway policy and procedure by eleven Tollway employees working at maintenance garage sites. The violations alleged ranged from excessive tardiness and not having a proper driver's license while operating Tollway equipment to drug use and arrests not reported to management. An OIG report dated July 09, 2013 reported the investigative findings. One employee with documented arrests was terminated on March 20, 2013 for abandoning his work assignment while on duty. A second employee named in the letter was terminated on January 25, 2013 for testing positive for drugs. A third employee filed a complaint with the Office of the Executive Inspector General (OEIG) resulting in an additional investigation. A fourth employee has been previously suspended for thirty (30) days for testing positive during a random drug and alcohol screening. He was last tested February 20, 2013 with negative results. A fifth employee tested positive on July 25, 2012 during a random drug and alcohol screening and was suspended for thirty (30) days. He was tested in February and April 2013 with negative results. A sixth employee was recommended for termination in November 2011 due to a conviction in June 2011 for attempted forgery. However, following a union grievance, a "Last Chance Agreement" was provided for certain specific enumerated conditions. He subsequently received discipline in February and May, 2012, but the disciplinary action was for violations not covered by the "Last Chance Agreement" and therefore he was not terminated. Partially as a result of these cases the Administration Department issued a reminder to all employees on April 30, 2013 regarding "Mandatory Employee Self-Reporting of Criminal Arrest or Indictment".

#### **IG-13-0004**

On March 8, 2013, the OIG received a complaint from a Tollway employee alleging bullying, intimidation, hostile work environment, harassment, and violence in the workplace by a co-worker. The Tollway employee subsequently filed a criminal complaint for battery against the co-worker. The May 13, 2013 investigative report included a history of a pattern of intimidation, bullying, hostile and insubordinate behavior and inappropriate conduct towards co-workers. The investigation also determined the employee had two sources of outside employment never approved by management. The investigation raised questions regarding application of discipline and chain of command issues. The employee was placed on suspension pending investigation and was terminated from Tollway employment on August 26, 2013. The criminal charge is pending.

#### **IG-13-0006**

On April 04, 2013 the OIG received information from the Illinois State Police (ISP) that an ISP Narcotics Task Force had served a search warrant at the residence of a Tollway employee. The employee admitted to the ISP to growing cannabis and was charged with two misdemeanors. The employee was interviewed by the OIG and admitted growing and using cannabis and giving it to friends.

The employee was placed on suspension pending investigation and the OIG was advised that he was terminated from employment with the Tollway effective July 24, 2013.

#### **IG-13-0007**

The above summary of IG-12-0024 regarding an anonymous letter received by the OIG included information regarding a Tollway maintenance worker using drugs. That employee had previously filed a complaint with the OIG in 2010 alleging harassment by his supervisor. After testing positive on the Tollway drug and alcohol screening he admitted using marijuana and chose not to pursue his complaint in 2010. The same employee then filed a complaint on March 18, 2013 with the Office of the Executive Inspector General (OEIG). The OEIG determined that it was not an issue to be investigated by their office and referred the matter to the OIG for review. The employee alleged that he had been physically threatened several times over an eight month period by his supervisor. The employee was interviewed June 06, 2013 and it was determined the incident involving his supervisor occurred November 25, 2012. The employee never mentioned the November incident to the OEIG and the employee never filed a complaint with anyone in the Tollway or the Illinois State Police at any time. It was also determined that the employee was given a five day suspension for employee demeanor issues that began the same day he filed the complaint with the OEIG. He did not mention the suspension during his interview with the OIG. The OIG report dated June 12, 2013 advised that the information provided did not substantiate the allegations in the complaint and there were discrepancies in the information provided. The information was provided to the management of the employees department for further review and appropriate action.

#### **IG-13-0014**

The OIG received information from the Department of Administration that on June 10, 2013, an independent newspaper columnist reported that a Tollway employee had been hired without a high school or GED diploma. The employee in question was initially hired as a Seasonal Toll Collector which does not require a GED or high school diploma since it was initially designed to hire students for the summer. However, in November, 2012 the employee was hired as a regular Toll Collector, which does require a high school diploma or GED. The Tollway H.R. department had not followed up with the employee regarding documentation of the degree. When the employee provided a diploma on July 08, 2013, it was determined to be a forgery. The employee had previously submitted forged documents to the Chicago Transit Authority (CTA) and resigned from that employment when the forgery was discovered. That CTA forgery had been reported in 2012 by the OEIG following their investigation. The employee subsequently admitted submitting a forged document to the Tollway and submitted her resignation on August 01, 2013. The Department of Administration is now routinely checking the OEIG website for individual reports of cases.

## **IG-13-0020**

On September 06, 2013 the OIG was notified by Internal Audit that a review of the receipts submitted by a summer temporary Toll Collector who was hired at the end of May 2013, indicated shortages during August 2013 nearing \$1000.00. Following additional investigation the Collector was interviewed and admitted stealing \$1360.00. The employment of the Collector was terminated on September 12, 2013 and the facts of the theft have been referred for potential prosecution.

## **ADDITIONAL INVESTIGATIONS RESULTING IN RECOMMENDATIONS:**

### **IG-13-0004**

The above investigation concerned allegations of a Tollway employee failing to follow the Tollway rules of conduct including, intimidation, harassment, hostile work environment, violence in the workplace, battery and failure to follow policies and procedures regarding outside employment. Following the May 13, 2013 investigative report the employee was terminated effective August 26, 2013. As a result of the investigation, the May 13, 2013 report included the following recommendations and on September 20, 2013 the following Management Responses were received:

1. All Tollway Management should be required to complete a course in management training as deemed appropriate by the Executive Office and the Chief of Administration.
  - **Management Response:** *Agree. A formal Supervisory Training Program is being developed and will be provided to Tollway Management in the Fourth Quarter of 2013. The training will be directed at Tollway Management consisting of non-union supervisory personnel. The training program will review the duties and responsibilities of supervisors, including the need to monitor and enforce the employee's respective (union) time and attendance policies; proper managerial responses to poor performance (lack of productivity or errors), discipline violation of departmental work rules and Tollway rules, dealing with interpersonal conflicts, properly referring ethics complaints, properly referring wasteful or fraudulent activity; properly referring discriminatory or harassing behavior. There will be a particular emphasis on the need to timely and thoroughly investigate disciplinary matters and how to coordinate responses with the Inspector General and the EEO/AA Officer.*

2. All Tollway Management should be responsible and held accountable for managing their respective departments. It is inappropriate for department management to be directed by the EEO/AA Officer.

- **Management Response:** *Agree with some additional observations. The Tollway concurs that Tollway Management should be responsible and held accountable for managing their respective departments. Furthermore, the Tollway agrees that the EEO/AA Office on his or her own authority, should not direct department management. However, the EEO Officer as a direct report to the Executive Director, is not supposed to direct departments on his or her sole authority, but rather the EEO Officer should only take action under the direction of the Executive Director or her designee.*
- *Management is responsible and accountable for managing their respective departments. Managers must know and follow the Tollway's disciplinary procedures as outlined in the Policy Manual. Managers, in consultation with their department chief, are responsible for timely and thoroughly investigating disciplinary matters. It is recognized that the EEO/AA Officer, under the authority of the Executive Office and pursuant to the Human Rights Act, the Americans with Disabilities Act and the Policy Manual is obligated to independently investigate charges of discrimination, harassment or retaliation and requests for accommodations. If there is a conflict between investigations (managerial and EEO/AA), management is expected to contact the Executive Office for direction. The Tollway's primary qualification is that the EEO/AA Officer, under the direction of the Executive Office, may at times have to take corrective remedial actions in a department on issues related to EEO/AA matters. As a direct report of the Executive Director, the EEO/AA Officer must be given latitude to perform its assigned duties and that includes formulating and implementing responses for Tollway management, with the oversight of the Executive Director or the Executive Office, to swiftly take remedial and corrective actions for instances of found harassment, discrimination and retaliation. This assumes that the EEO/AA Officer has suitably investigated the matter and found the need for action.*

3. All Tollway Departments should make certain questionable conduct demonstrated by any employee is documented and maintained on file by that Department, regardless of counter instructions from any other Tollway employee.

- **Management Response:** *Agree with some clarifications. The Personnel Record Review Act and various Tollway Union contracts require that there be a personnel file which contains all the employee's personnel records. Specifically, the AFSCME Contract in Section 11.1 provides that "there should be one official personnel file, which shall be maintained at the Employer's central office". However, it also allows for employee supervisors to maintain a file pertaining to an employee. Therefore, Tollway Departments may keep disciplinary and counseling records for their own use but only if they have sent the records to Administration to be put in the personnel file. Tollway Departments should not have additional records in their department file and must not have any medical information in their departmental files. Those must be sent to Administration to be put in the secure confidential medical records files that Administration*

*maintains. As there may be some confusion, due to past practice or otherwise, as to what is allowed to be kept by a supervisor, this topic will be covered in the Supervisory Training Program.*

4. Tollway Management should be permitted to address problems contemporaneous with the act that demands disciplinary measures. Management should act immediately and not permit the questionable or inappropriate conduct to continue. Management should act as such without interference from any other department.

- **Management Response:** *Agree with qualifications. It is accepted and expected that Tollway Management should address violations of Tollway Policy in a timely manner, and the Tollway works toward that goal as much as possible. However, Tollway Management at times must defer to the IG or the EEO/AA Officer investigation because of their statutory requirements to conduct certain types of investigations that supersede Management's disciplinary policy enforcement. Moreover, there may be a need to await completion of IG and/or EEO investigations before issuing discipline.*
- *Specifically, if Tollway Management's investigation interferes with or is perceived to interfere with an IG investigation, upon request of the IG, the Executive Office will direct Management to defer to the IG. Furthermore, if Tollway Management's investigation interferes with an EEO/AA/ADA investigation, the Executive Office will direct the Tollway Management to defer to the EEO/AA Officer upon request by the EEO/AA Officer. Finally, in the event that the IG advises the Executive Office that an EEO/AA/ADA investigation interferes with an IG investigation, the Executive Office, to the extent allowable by law, and if necessary, with consultation with the Attorney General, will direct the EEO/AA/ADA to defer or delay his or her investigation until such time as the investigation no longer interferes with the IG investigation. However, if the Executive Office determines that parallel investigations are required, they will notify the IG of the need for parallel investigations (of course, such notification would only be informational for the independent office of the IG). This topic will also be covered in the Supervisory Training Program coupled with the timing for appropriate guidance from legal and the EEO offices.*

5 Tollway Management should document any request for personal or business items made by an employee under suspension pending investigation and immediately notify the investigative agency of the request prior to releasing anything.

- **Management Response:** *Agree. A Tollway-wide Standard Operating Procedure will be in place this year to ensure that this step is in place and communicated. Administration will develop an Inventory sheet to document what personal items have been collected/found and it will contain an authorization to release from the IG, EEO Officer and the Chief of the Department. Additionally, Administration will develop an inventory sheet of items the Tollway has given the employee, such as laptops, computer equipment, phones, identity badges, clothing, cold weather gear, tools and any other Tollway property.*

6 Criminal investigations may only be handled by the appropriate law enforcement agency as designated by local, state and federal statute.

- **Management Response:** *Agree with comment. The Tollway agrees that Non-IG Tollway Management should not be conducting criminal investigations and recognizes that in addition to outside law enforcement, the Toll Highway Act specifically authorizes the IG to conduct criminal investigations as a Tollway entity for the Tollway. In the event that Tollway Management learns of a criminal charge or criminal investigation, the Tollway's practice is to promptly notify the IG.*
- *As you know, the existence of a criminal investigation or arrest is not a substitute for Tollway Management's own investigation of violations of Tollway Policy. It is recognized that a criminal arrest or criminal investigation of an employee is not a basis for discipline by itself. The Tollway must conduct its own investigation into the incident that gave rise to the arrest. When there is a criminal investigation or arrest, Tollway Management should contact both the IG and the Executive Office for direction on how to proceed (recognizing, again, that the IG is an independent actor that does not take direction from Management). If the IG decides to defer an investigation to Tollway Management for arrests for incidents that are deemed by the IG to be insignificant or routinely handled through Tollway Management's disciplinary policies, then Tollway Management will conduct the investigation and handle any discipline. Otherwise, the Tollway will defer to the IG's investigation and rely upon the IG's findings and recommendations.*

#### **IG-12-0024**

This investigation was discussed above and was initiated as a result of an anonymous letter. The letter had alleged various violations of Tollway Policies and Procedures by employees at Tollway Maintenance Garages. At the conclusion of the review of the employees backgrounds and the allegations, the following recommendations were made on July 9, 2013 and on September 13, 2013 Management provided the following response:

1. The Engineering Department and Administration should continue to monitor and review each Tollway employee named and institute progressive discipline as warranted.

- **Management Response:** Agree.
2. Executive Management should take as serious action as possible to remedy the infractions and continued violations of Tollway Policies and Procedures.
    - a. **Management Response:** Executive Management will review with Legal counsel, in combination with currently on-going reviews and revisions of the Tollway Policy and Procedures Manual, the recommendation that the Executive Management take more aggressive steps to remedy violations of Tollway Policy and Procedure to determine how to create the most aggressive approach to ensure employee compliance with laws, the Tollway Policy and Procedures Manual and the Collective Bargaining Agreement.

### IG-11-0033

The OIG previous Summary Report for the period ended March 31, 2013 included the above investigation as follows: The OIG received information from Tollway Management on August 11, 2011 regarding a Toll Collector filing a workers' compensation claim alleging a leg was injured at work and crutches were needed and therefore the employee could not return to work. Extensive research was necessary to obtain all documentation regarding the injuries claimed and the background medical information provided as substantiation of claims. Additional records were located regarding other claims made by the employee. It was determined that the employee had three pending workers' compensation claims. Currently the Tollway's workers' compensation claims are managed by Cannon Cochran Management Services (CCMCI). Due to procedural issues and other responsibilities the OIG was not able to conduct an interview of the employee until August 2, 2012. The employee stated a Tollway employee in the Benefits Section gave her advice on what to write in a letter presented to the Tollway to justify time off. The Benefits Section employee, who was no longer employed at the Tollway, subsequently admitted that it was possible that such advice was given.

The October 19, 2012 OIG report listed the following recommendations. On March 20, 2013 the Tollway provided the following responses: *(On May 08, 2013 the OIG resubmitted the following questions regarding the recommendations and the Management Response, and on September 18, 2013 a Management response was received as follows:*

- The Tollway should consider disciplinary action regarding the employee for excessive absenteeism and/or absence without notice.
  - **Management Response:** *In situations where it appears an employee violated provisions of the Tollway's Policy Manual, facts are reviewed and if appropriate, discipline is issued.*
  - **OIG response question from May 8, 2013:** *In this case the employee was on Unauthorized Leave Without Pay (ULWOP) for eight (8) days before anyone noticed she was not reporting in for work or calling in with a reason for her absence. Per current Tollway Policy, an employee can be terminated for failing to report in for two (2) days. To date, the OIG has not been informed of any disciplinary action having been issued.*

- **Management response dated September 18, 2013:** *On May 31, 2013 an email noted that the eight days of ULWOP from May 4, 2011 through May 15, 2011 was initially coded improperly as the coding “workers comp-disputed” did not exist at that time. Based on the corrected coding it was believed that discipline for the eight days would not be appropriate. The Kronos system has since been altered to allow the proper coding.*
- The Tollway Managers should receive instruction on what injuries may qualify for an accommodation under the ADA, who may request them and whether an employee can return to work with restrictions. All requests for accommodations should be routed through the Tollway’s ADA Officer.
  - **Management Response:** *The need for on-going training for supervisory and managerial staff regarding the Tollway policy and application and interaction of various laws (i.e., Workers Compensation, FMLA, ADA, etc.) is practical and would be beneficial. Training has been conducted in the past, and employees, supervisors and managers are (or should be) aware of the current processes applicable to various situations. Specifically, any request for accommodations should be referred to the ADA Coordinator who will make appropriate inquiries to determine if the request is from someone who is a qualified individual with a disability, engage in the interactive process, and obtain necessary medical documentation to support the request, if appropriate. The ADA Coordinator then conveys the needed accommodation to the appropriate supervisory staff. To centralize this process and ensure procedures are followed consistently informal accommodations at the work site without the involvement of the ADA Coordinator are to be avoided. The ADA Coordinator is in the process of conducting updated guidance and clarification regarding disability and accommodation related issues for supervisory staff.*
  - **OIG response question from May 8, 2013:** *This recommendation sought to address the fact that when the employee sent a letter stating her Doctor placed her on restrictions the Tollway could not accommodate because she needed crutches to walk the employee was not offered an accommodation under ADA and the letter, possibly a request for an accommodation, was not routed to the Tollway’s ADA Coordinator. It appears that the employees extremely occasional use of crutches could have been accommodated by the Tollway and she could have therefore returned to work earlier if management had communicated more effectively on the issue. Please provide copies of any written “updated guidance and/or dates of training and clarification regarding disability and accommodation related issues” and/or the dates of any training.*
  - **Management Response dated September 18, 2013:** *All Tollway managers and supervisors were required to attend training on August 13<sup>th</sup>, 14<sup>th</sup> or 15<sup>th</sup> of this year. The training included segments on Worker’s Compensation matters, as well as the Americans with Disabilities Act. The materials for both the Worker’s Compensation as well as the Americans with Disabilities Act training sessions are currently available in the Managers Portal under the Administration tab on Crossroads.*
- The Tollway should require that weekly employee phone calls due to any type of injury related leave should be tracked, HR should be informed, and employees should be notified of this responsibility in writing as well as their responsibility to inform the Tollway of their medical appointments so that the proper type of leave can be entered timely into the timekeeping system.
  - **Management Response:** *Tollway policy, which all employees receive at the time of hire, sets forth call-in obligations by the employee. Mandatory call in does not apply to all types of leave (i.e., ADA leave). A central call-in number while helpful for ensuring accurate and timely notation of absences could place an undue burden for adequate staffing at the external worksites. The practice of calling before hours and leaving a*

*voice mail message needs to be reviewed and perhaps modified to ensure appropriate communication and notation in KRONOS is conducted. The Tollway began utilizing a vendor to coordinate FMLA and ULWOP to streamline the process. However, certain leaves can be granted after the fact (i.e., an employee without benefit time is noted as ULWOP but subsequently granted FMLA). Reviewing processes to determine whether additional enhancements can be made is sensible, keeping in mind the confidentiality rights employees have regarding medical conditions.*

- **OIG response question from May 8, 2013:** *Based upon information received by the OIG during this investigation and others, the current practice of informing employees of the Tollway's call in policy at the time of hire does not appear to be effective which is why the OIG recommended that employees be notified of this policy in writing when they utilize and extended leave. The OIG was not suggesting a specific manner by which employees calling off work should be tracked; no mention of a central call-in number was made. However, the current Tollway policy requiring employees on leave to call in weekly is not successful because employees calls are not tracked by management and communication among various managers is lacking. Such tracking would alert management to various absence problems and would aid in keeping KRONOS records accurate and timely. Please inform the OIG of the results of your review of the current process.*
- **Management Response dated September 18, 2013:** *The Department of Administration has now made as part of its notification process the inclusion of materials regarding call-in policies where calling in is required. In addition, the Tollway has successfully procured an enhancement to the Kronos time system known as Absence Manager. Beginning in 2011, the Tollway began the procurement to enhance the Kronos time system which would provide the Department of Administration with new abilities to centrally monitor absences and alert management to unapproved absences. The Tollway is in the process of implementing the enhancement. In addition, the Tollway is in the process of procuring an E-Recruiting system which will provide additional enhancements and central monitoring capabilities for the Department of Administration. After initial issues, the E-Recruiting RFP was re-published in August 2013. Even longer term, the proposed Enterprise Resource Planning system may provide additional central monitoring capabilities. Still, the Department of Administration is reviewing capabilities of systems to bridge the time before such systems can be put in place.*
- The Tollway should consider mandating that a drug test be administered after any reportable injury (not just involving traffic accidents) and consideration should be given to including a ten-panel test with an expanded opiates test since prescription drug abuse has become a much more prevalent and serious problem.
  - **Management Response:** *The Tollway follows the USDOT drug testing for CDL holders and other safety sensitive positions. There may be a challenge to the implementation of stricter drug testing requirements than federal regulations. There must be a basis to subject all employees to drug testing particularly to determine abuse of prescription drugs. Further, testing after every injury, while desired and practical may not provide a deterrent if employees do not report work related injuries immediately. Implementing this change could be costly. Additionally, any changes to the Tollway's drug and alcohol policy must be mindful that it does not violate any privacy protections afforded to employees under a variety of federal regulations (i.e., ADA, GINA, etc.)*
  - **OIG response question from May 8, 2013:** *The response raises several legitimate concerns, but whether or not the recommendation will be followed is not stated. The OIG*

*acknowledges that drug testing is a complicated issue, however being under the influence of any drug, illegal, prescribed or illegally obtained prescription drugs remains a possible factor in any injury. Evidence of their use would aid in the defense of a lawsuit or claim. The timing of when the Tollway is made aware of an injury, by the employee or a supervisor is an obvious factor to be considered in drafting a policy.*

- **Management Response dated September 18, 2013:** *The Tollway has requested that the Legal Department provide recommendations on the advisability of establishing a 'Zero Tolerance Policy' with respect to testing positive for drugs while on duty. As part of its review of implementation strategy for a 'Zero Tolerance Policy' the Tollway has requested that the Legal Department also provide recommendations on the advisability of expanding occasions on which to test for drugs as well as expanding the test panel.*
- The Tollway should require that after every reported injury the manager should create a list of all employees on duty and any available video should be copied; both of which should be tendered to CCMSI to aid in its investigation.
  - **Management Response:** *Enhanced investigation and report gathering from witnesses or relevant staff at the time of injury, including photos if appropriate is desired and has been implemented. Requests to preserve video are also made when after injuries are reported, but because injuries are not required to be immediately reported, video or photo documentation may not always be available. This process could be streamlined and coordinated by the Workers' Compensation Division and/or Safety. Passing along the information to the Tollway's TPA, (currently CCMSI) as appropriate aids in the defense of claims and determining compensability, and currently occurs.*
  - **OIG response question from May 8, 2013:** *Please describe how the process has been streamlined and coordinated and who or what position is responsible for obtaining a list of witnesses and available video.*
  - **Management Response dated September 18, 2013:** *The Tollway has provided cameras to each department to take pictures of the accident scene and any other relevant information immediately after the injury has been reported so that reports can be made as quickly as possible. When possible, video evidence is preserved. In addition, the Tollway continues to focus on means to reduce worker's compensation claims: improving safety in the work location; eliminating unsafe work conditions; bringing employees back to work as soon as they can return to work; lowering the number of chances for claims; working with the safety department; coaching on working safely; and utilizing employees in transitional duty assignments when necessary. Management continues to be required to work with the Safety Training Unit and the Benefits Unit. These and other matters were addressed in the Training conducted on August 13, 14 and 15.*
- The Tollway should create an Administrative Directives Manual to detail all various HR procedures and make it available via the Tollway Crossroads intranet to all employees to set out employee and management responsibilities and avoid confusion over management's and employees' responsibilities. A description of the role of the various Departments and vendors in the workers' compensation process from injury to settlement and who in management is responsible for requesting any employee discipline should be included.
  - **Management response:** *The majority of Tollway personnel do not have access to the Tollway's intranet (i.e., Toll Collectors and EO/L). Thus prior to utilizing the intranet as the source for Directives or Policy (i.e., via CrossRoads) measures must be implemented to ensure all employees have access. Administrative Directives that relate in a broad sense to human relations (i.e., Human Resources, Benefits, Employee Services, EEO, Ethics, ADA, Workers' Compensation, Labor Relations, Safety, and Training, etc.) will*

*be considered by management. Maintenance and Traffic and Toll Operations have Administrative Directives that cover their respective departmental specific procedures.*

- *The Tollway maintains direction and control of its workers compensation claims. It currently utilizes a third party administrator (CCMSI) to supplement any investigation, maintaining a claims file, making prompt payment for medical bills, TTD payments, and other expenses (as required by the Workers Comp Act) coordinating medical appointments, coordinating other necessary vendors and assisting defense counsel as needed. Coordinating Tollway personnel as needed on claims is the responsibility of the Tollway staff. In the event a claim appears questionable (possible fraud), the claim needs to proceed in the Workers Compensation Commission on a disputed basis. At the conclusion of the litigation, if a questionable claim is denied by the Commission that has been suspected of being fraudulent, it can be referred to the Illinois Department of Insurance Workers' Compensation Fraud Unit. However, before claims can be referred to that division for investigation, the claim must be thoroughly defended and trial completed to avoid the risk of compromising success at trial or retaliatory claims being brought by the employee for filing workers compensation claims.*
- **OIG response question from May 8, 2013:** *The Tollway provides Internet access for all employees to access the mandated annual ethics training. If this can be accomplished, then some method of providing access to this information to all employees could be developed. Please inform the OIG if the development of Administrative Directives for HR will or will not be implemented.*
- **Management Response dated September 18, 2013:** *The Department of Administration is currently exploring the ability to provide terminals at locations that do not have regular access to Crossroads.*

## **GENERAL SUMMARY OF ACTIVITY:**

In order to provide a more complete summary of the activity of the OIG during this period, it should be noted that in addition to the investigations discussed above, the OIG also received, from Tollway Management and individuals, various allegations and concerns and conducted investigations into numerous additional matters during this period, which were completed with no material findings or procedural recommendations.

During the period of April 1, 2013 through September 19, 2013 the Office of the Inspector General opened sixteen (16) Inspector General (IG) cases and closed sixteen (16) IG cases. There are currently eighteen (18) IG cases open

There were ninety-seven (97) Investigative Assistance (IA) cases opened and ninety (90) IA's closed and two were converted to an IG investigation. Of the IA cases opened, seventy-seven (77) were responding to a subpoena requesting Tollway information.

The office opened six (6) Preliminary Inquiry (PI) Investigations and six (6) PI investigations were closed. Two cases were converted to an IG investigation.

The IG office received sixty (60) complaints from citizens and sixty-five (65) complaints were closed.

The above numbers represent a total number of one hundred-nineteen (119) cases opened and a total number of one hundred twelve (112) cases closed for a total of two hundred thirty-one (231) cases handled during this time period. The total is three hundred fifty-six (356) matters handled when the complaints received and closed are included.

There are four (4) redacted investigative reports to be posted on the Tollway website for public review during this six month period and additional ones will be posted when appropriate.