



Illinois State Toll Highway Authority

**Office of the Inspector General**

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**SUMMARY ACTIVITY REPORT**

March 1, 2023 through August 31, 2023

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Theodor J. Hengesbach  
Inspector General

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**OFFICE OF THE INSPECTOR GENERAL**  
**Theodor J. Hengesbach – Inspector General**

**SUMMARY ACTIVITY REPORT**

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

**From:** Theodor J. Hengesbach, Inspector General

**Date:** September 28, 2023

**Re:** Office of the Inspector General Summary Activity Report for the Period  
Spanning March 1, 2023 to August 31, 2023.

**INTRODUCTION**

We submit this report pursuant to Section 8.5 of the Toll Highway Act (the Act).<sup>1</sup> The Act created the Office of the Inspector General (OIG) to provide independent oversight of the Illinois Tollway. On February 22, 2022, the Illinois Senate confirmed the re-appointment of Theodor J. Hengesbach to a second five-year term.

**MISSION/JURISDICTION**

The OIG's mission is to foster effectiveness and efficiency in Tollway administration and operations by promoting integrity and accountability of the Tollway board, Tollway employees, and Tollway contractors and vendors. In furtherance of its mission, the OIG strives to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement.

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<sup>1</sup> 605 ILCS 10/8.5(m) provides: The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly.

The OIG derives its authority and direction from the Illinois Toll Highway Act<sup>2</sup> and the Illinois Administrative Code.<sup>3</sup>

By statute, the OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.<sup>4</sup> As a general rule, the OIG does not become involved in cases involving private disputes, labor-management issues, or litigation. Matters investigated by the OIG may also fall within the jurisdiction of other agencies (e.g., federal, state, or local law enforcement, other inspectors general, etc.). In such cases, the Inspector General is authorized to refer matters or work jointly with these other agencies to investigate allegations of wrongdoing.

The OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. Furthermore, the OIG reviews Tollway policies and procedures, and employment and hiring files, and serves as liaison to law enforcement entities.<sup>5</sup>

## STAFF

In addition to the Inspector General, the OIG is currently staffed with a Deputy Inspector General, a General Manager of Investigations, two Investigator IIs, two Investigator Is, and an Executive Secretary.

The Inspector General, Deputy Inspector General, General Manager of Investigations, and all four Investigators are certified by the Association of Inspectors General. The Inspector General, General Manager of Investigations, both Investigator IIs, and one Investigator I are Certified Fraud Examiners.

In addition, the Inspector General and the General Manager of Investigations continue as active members of the Board of Directors for the Illinois Chapter of the Association of Inspectors General. The Inspector General currently serves as Vice-President of that Board.

The position of Information Analyst is vacant and is expected to be posted this year.

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<sup>2</sup> 605 ILCS 10/8.5 605 ILCS 10/8.5.

<sup>3</sup> ILL. ADMIN. CODE title 2, sec. 3430 (2011).

<sup>4</sup> See 605 ILCS 10/8.5(d).

<sup>5</sup> See 605 ILCS 10/8.5(f).

## INTAKES

The OIG receives complaints and reports of concerns and allegations of wrongdoing<sup>6</sup> from the general public, Tollway officials and employees, vendors, bidders, and anonymous sources. These are screened and assessed to determine the most appropriate action, which can include opening a Preliminary Investigation (PI),<sup>7</sup> an Investigation (IG), a Review (R), or an Investigative Assistance case (IA).<sup>8</sup> The OIG can also refer matters, as appropriate, to Tollway management, law enforcement or another entity, or decline to open a case.

Factors that impact this decision include: the reliability and accuracy of information based on the OIG's knowledge of the subject matter; the nature of the conduct alleged and the ability to independently verify the allegations; the age of the conduct complained of; the likely impact on Tollway operations; and the availability of investigative resources.

Typically, matters are opened as Preliminary Investigations, which are limited-scope inquiries to develop and evaluate available information to determine the most appropriate next action.

The OIG also receives complaints and calls relating to I-PASS concerns or toll violations and fines that are referred to the Tollway Operations Customer Service section.

By law, the identity of any individual providing information or reporting possible or alleged misconduct to the OIG may not be disclosed without consent of that individual or as otherwise required by law.<sup>8</sup> Additionally, state, and federal Whistleblower laws and Tollway policy prohibit retaliation against individuals who provide information to or cooperate with an OIG investigation.

The OIG receives reports of wrongdoing in a variety of ways: in person, by telephone, facsimile, and US and Electronic mail. The Tollway OIG Hotline (866-786-5544) has become the primary means by which the OIG receives such reports. During the past six-month period, there were 35 incoming Hotline calls.

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<sup>6</sup> The OIG can also self-initiate investigations and reviews.

<sup>7</sup> A Preliminary Investigation is initiated to conduct limited-scope inquiries to determine the next appropriate action. Generally, these inquiries are open for 30 days, although 30-day extensions may be approved by the Inspector General.

<sup>8</sup> Investigative Assistance matters include tracking of employee arrests and requests for information or subpoenas from law enforcement, regulatory agencies, or other Inspectors General.

The second most popular reporting method is the OIG online electronic form that allows individuals to provide information in a secure, confidential manner. This form can be accessed through the OIG webpage; it is encrypted upon submission and delivered directly to a secure OIG email account. This method also allows large documents and electronic records to be provided confidentially. During this reporting period, the OIG received 25 online submissions.

From March 1, 2023 through August 31, 2023, the OIG took action in 106 matters:

Preliminary Investigations	23 opened 25 closed 14 converted (6 Investigations, 6 Referrals, 2 Reviews)
Investigative Assistance <sup>9</sup>	0 opened 0 closed
Investigations	15 opened 2 closed
Reviews	2 opened 1 closed
Referrals	60 matters referred 7 to Law Enforcement
Declined	6 matters

As of August 31, 2023, the following matters were pending<sup>10</sup>:

Preliminary Investigations	9
Investigative Assistance	0
Investigations	18
Reviews	4

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<sup>9</sup> On October 1, 2017, responsibility for responding to law enforcement subpoena requests for Tollway records transitioned from the OIG to the Legal Department.

<sup>10</sup> These numbers include carry-over from previous reporting period.

## REPORTS OF FINDINGS

Summary Reports of Investigation detailing sustained findings and/or recommendations for corrective action are submitted to the Board Chair, the Executive Director and appropriate management officials. Summary reports resulting in discipline of more than three days are publicly released in redacted form on the OIG website after the discipline has been finalized.

The OIG also issues Management Advisory Reports to the Board Chair, the Executive Director and appropriate management officials, which describe operational concerns observed by the OIG in the course of its activities.

There were no recommended administrative actions or matters submitted for consideration to the Governor or the General Assembly during this period.

The following are summaries of two Summary Reports of Investigation and one Management Advisory Report that were issued during this period.

### SUMMARY REPORTS OF INVESTIGATION

#### IG-22-007

An OIG investigation identified concerns with the administration and management of the Tollway's Tuition Reimbursement program. Under this program, managed by the Tollway Administration department, the Tollway reimburses approved educational expenses incurred by employees up to \$5,250 per year, tax free, as the budget allows. To qualify, employees must seek appropriate approvals, submit required documentation, and meet minimum academic standards. By policy, employees who leave the Tollway within two years of completing courses for which they received reimbursement must return the funds.

OIG's investigation identified poor management and unclear guidance that led to sloppy recordkeeping, improper reimbursements, and inconsistent efforts to recoup payments given to former employees.

OIG recommended that the Tollway review the Tuition Reimbursement program and make necessary revisions to ensure that it aligns with Internal Revenue Services (IRS) rules and that payments are properly attributed to the year of the expense. OIG further recommended that the Tollway implement more robust recordkeeping and improve coordination among departments to recoup outstanding balances owed from departed employees. Finally, OIG recommended that the Tollway provide updated training to employees who administer this program.

## Response

The response was expected on July 28, 2023 and received on August 3, 2023.

The Tollway agreed with the findings and provided a detailed response to address the OIG recommendations.

On September 26, 2023, Administration provided a copy of a three-page standard operating procedure (SOP) for the Tuition Reimbursement program that provides an overview of the purpose of the program and instructions for Employee Benefit staff members detailing steps they need to take in the Pre-Approval Process and the Payment Request Process. These steps include a quarterly review of all tuition reimbursement records.

The SOP also includes a section on the Funds Repayment Process that sets forth the coordination between Administration and the Finance department if an employee who received reimbursement leaves Tollway service within two years of completing the course for which they were reimbursed.

Administration further indicated that it is updating forms and developing a checklist for the process. By the end of October it expects to formally train all employees involved in administering this program, and this training will include information about IRS Publication 970, Tax Benefits for Education rules. Finally, the SOP directs that Administration will communicate with the Controller to ensure that all payments are included in the fiscal year that the course is completed.

## IG-23-002

OIG initiated an investigation after a former Tollway custodian reported to the OIG that they had been separated from Tollway service in 2022 after they did not respond to a Tollway return-to-work letter that had been sent to the wrong address. The custodian did not receive the letter until two weeks after the response was due. The employee also complained that their lump sum final payment had been incorrectly double-taxed.

OIG's investigation confirmed that the custodian had submitted a change of address in 2020, which was located in their personnel file, and the new address was reflected in the Tollway's employee database. OIG interviews of relevant personnel established that Tollway Administration signed and sent out two letters drafted by the former EEO/Labor Relations Officer that included the custodian's old home address. The first letter notified the employee that they had exhausted all available leave options following their injury on duty and informed them to either return to work or seek accommodation. Failure to do either, the letter said, would result in separation of employment. The second letter was sent after the employee failed to respond to the first, informed them of their separation. OIG further found that Tollway Administration subsequently sent a letter to the employee's correct address informing them of their insurance options following separation.

These facts establish reasonable cause to find that the Tollway departments that drafted and issued the letters failed to exercise appropriate diligence or care. As to the second allegation, OIG found that the Tollway accurately applied all applicable deductions to the former employee's lump sum payout; thus, the claim of double taxation was not sustained.

During the course of this investigation, OIG became aware of another incident where an employee's disciplinary paperwork had been sent to the wrong zip code. In light of these facts, OIG recommended that the Tollway establish a written protocol for drafting and sending correspondence to employees, especially correspondence that could impact their employment status or benefits. This protocol should identify who drafts, reviews, and sends such correspondence, and who should confirm addresses and track employee responses.

### Response

The response was expected on August 30, 2023 and received on August 29, 2023.

In its response, the Tollway agreed with the findings and said it had implemented a more robust process for preparing, reviewing, sending, and confirming receipt of correspondence related an employee's status or benefits. This process is now initiated and overseen by the Employee Benefits section of Tollway Administration.



## MANAGEMENT ADVISORY REPORTS

### R-22-008

OIG completed a review of the Tollway's filling of Exempt positions between February and November 2022, which examined the process and assessed whether the hiring documentation was complete and supported these hiring decisions. Exempt positions are those that, because of the nature of their duties, do not require a competitive hiring process. However, all candidates selected for Exempt positions must meet the minimum qualifications for the position.

OIG requested a copy of the Tollway's Exempt hire process and sought copies of all hiring documentation for the relevant time period. The review included evaluating standard elements of any hiring process: were there job descriptions, do those describe minimum requirements that can be objectively measured, do the candidates meet the minimum requirements, and does the hiring manager provide a justification for the selection?

This review did not identify any clearly improper hires among this group, but it did uncover process variances as well as gaps in the hiring file documentation that made it difficult to objectively determine that the candidates met the minimum qualifications set forth in the position descriptions. Specifically, OIG identified inconsistencies in position descriptions, application submission requirements, and hiring justification memoranda.

To address these inconsistencies and bolster the credibility of the process, OIG recommended that the Tollway develop a more comprehensive Exempt Hire protocol covering such things as developing and approving Exempt position descriptions, ensuring objective assessment of candidate qualifications, and requiring meaningful hiring justification memoranda.

#### Response

The response was expected and received on August 18, 2023.

In its response, the Tollway agreed with the findings and outlined a series of improvements for selecting and documenting Exempt hires that Administration and the Talent Acquisition Team will develop and implement by the 4<sup>th</sup> Quarter of 2023, including:

- Updating the "Exempt Recruitment and Hiring Process" PowerPoint to reflect process changes implemented in 2023.
- Updating the "Exempt Positions List" to add all new exempt titles, and ensure that the Tollway's employee database and OIG are updated monthly on any changes.

- Ensuring that all job descriptions include clear minimum qualifications for education, skills, and experience, which are distinguished from those that are preferred. The Talent Acquisition Team will assure that all new hire candidates meet minimum qualifications prior to proceeding to interviewing. If management would like to interview a candidate that does not meet the minimum requirements, it must provide a detailed explanation in a justification memo and be approved by the Chief of Administration.
- Adding supplemental questions to job applications for candidates to explain how they meet minimum qualifications.
- Initiating a “quality control” review process to ensure that the Processing Log correctly identifies all titles and candidate/employee names, and that hiring files include all relevant documentation.
- Developing a standard hiring justification memo template for use by all hiring managers.
- Working with executive leadership to develop and implement a hiring process for internal and external appointments.

## MANAGEMENT REFERRALS

OIG refers matters that are most appropriately handled by Tollway management. The following summarizes the actions taken in response to one of these referrals.

### RF-23-050

In May of 2023 the Executive Ethics Commission (EEC) published a redacted report from the Office of Executive Inspector General for the Agencies of the Governor (OEIG) discussing the impermissible use of "blanket recusals" at the Department of Transportation (IDOT). As described in the report, high-level managers at IDOT, who were restricted by law from certain post-state employment work, were seeking to avoid being disqualified from working for IDOT vendors by taking themselves out of the decision-making process related to all vendors working with IDOT for the year prior to their anticipated retirement. This practice is known as "blanket recusal," and, while IDOT had implemented a policy prohibiting this practice, it had not been followed. OEIG determined that a "blanket recusal" was improper because it allowed employees to abdicate some of their job responsibilities, and the fact that these employees wanted to keep their post-IDOT employment options open did not constitute a valid basis for recusal.

OIG referred this matter and provided a copy of this report to Tollway Executive staff and the Ethics Officer to review, and recommended that the Tollway develop a policy prohibiting "blanket recusals" and include guidance in training offered to all employees.

### Response

The Tollway Ethics Officer reported that:

- The July 2023 Ethics Newsletter distributed to all Tollway employees focused on Revolving Door provisions and highlighted the prohibition on "blanket recusals."
- The Tollway will soon roll out a protocol that prevents "blanket recusals" by requiring a review of any proposed recusal.
- The 2024 Tollway Employee, Official, and Contractor Ethics training will include information regarding the prohibition on "blanket recusals," as well as reminders of the existing conflict of interest provisions from the Tollway Code of Ethics as they apply to contract negotiations and possible future employment.

## UPDATES ON PRIOR RECOMMENDATIONS

### R-21-002

In a previously reported Management Advisory Report, OIG noted state law changes that added the term “fiscal administration” to the statutory list of activities that can cause an employee to be restricted from working for a Tollway vendor after leaving the Tollway, and recommended that the Tollway take steps to inform employees of this change.

#### Update

The Tollway Ethics Officer reported that the revolving door C-list now includes positions that have “fiscal administration” responsibilities. All Tollway staff in the positions that were added to the C-list have signed the Revolving Door Notice and Acknowledgment and have taken the annual revolving door training. This list is updated monthly, and when staff on the C-list leave the Tollway, the Ethics Officer is notified and sends them written notification of their responsibilities under the revolving door provisions of the Ethics Act.

In addition, the Tollway Ethics Officer worked with Tollway Administration to update job descriptions for the affected positions to include appropriate revolving door language. Staff will be notified of these updates to their job descriptions in the 4<sup>th</sup> quarter of 2023.

## SUMMARY OF OTHER ACTIVITY

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

- Providing orientation for two new Board Directors.
- Continuing to participate in bi-monthly new employee on-boarding to introduce and describe the OIG's role, and to emphasize Tollway's expectation of integrity for all employees, officials, and vendors.
- Addressing Tollway managers about promoting integrity in the workplace.
- Regular engagement with Tollway stakeholders, including the Board Chair, Internal Audit, the Ethics Officer, and Executive staff about common issues and ways to improve.
- Collaborating with Ethics, Internal Audit, and Legal on the Conflict Review Committee and Ethics-related initiatives.
- OIG Staff timely completed all annual State and Tollway training.
- Three investigators completed a week-long Association of Inspectors General Certification Institute and satisfied the requirements to become Certified Investigators.
- OIG Senior Staff and an Investigator II attended a multi-day virtual conference sponsored by the Association of Certified Fraud Examiners that focused on current trends in the field of fraud detection and prevention.