

PUBLICATION OF REDACTED VERSION
OF THE OEIG FOR THE AGENCIES UNDER THE GOVERNOR
INVESTIGATIVE REPORT

Case # 20-02136

Subject(s): Acting IDOT Secretary Omer Osman and the Illinois Department of
Transportation

Below is the redacted version of an investigative summary report issued by the Executive Inspector General for the Agencies of the Illinois Governor. Pursuant to section 20-50 of the State Officials and Employees Ethics Act (Act) (5 ILCS 430/20-50), a summary report of an investigation is required to be issued by an executive inspector general when, and only when, at the conclusion of investigation, the executive inspector general determines reasonable cause exists to believe a violation has occurred. If a complaint is not to be filed with the Commission for adjudication of the alleged violation, the Act further requires the executive inspector general to deliver to the Executive Ethics Commission (Commission) a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report of the investigation and of the response from the ultimate jurisdictional authority or agency head regarding the summary report. 5 ILCS 430/20-50(c-5). The Act requires that some summary reports be made available to the public and authorizes the Commission to make others available. 5 ILCS 430/20-52. Before making them available, however, the Commission is to redact from them information that may reveal the identity of witnesses, complainants, or informants and may redact “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

Some summary reports delivered to the Commission may contain a mix of information relating to allegations with respect to which the executive inspector general did and did not determine reasonable cause existed to believe a violation occurred. In those situations, the Commission may redact information relating to those allegations with respect to which the existence of reasonable cause was not determined.

The Commission exercises its publication responsibility with great caution and seeks to balance the sometimes-competing interests of transparency and fairness to the accused and others uninvolved. To balance these interests, the Commission has redacted certain information contained in this report and identified where said redactions have taken place and inserted clarifying edits as marked. Publication of a summary report of an investigation, whether redacted or not, is made with the understanding that the subject or subjects of the investigation may not have had the opportunity to rebut the report’s factual allegations or legal conclusions before issuance of the report. Moreover, there has not been, nor will there be, an opportunity for the subject to contest or adjudicate them before the Commission. The subject merely has the opportunity to submit a response for publication with the report.

The Commission received this report and a response from the ultimate jurisdictional authority and/or agency in this matter from the Agencies of the Illinois Governor Office of Executive Inspector General (“OEIG”). The Commission, pursuant to 5 ILCS 430/20-52, redacted

the OEIG's final report and responses and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Agencies of the Illinois Governor, and each subject.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52. By publishing the below redacted summary report, the Commission neither makes nor adopts any determination of fact or conclusions of law for or against any individual or entity referenced therein.

– THE REDACTED VERSION OF THE EIG'S SUMMARY REPORT
BEGINS ON THE NEXT PAGE

I. BACKGROUND AND ALLEGATIONS

The State Officials and Employees Ethics Act (Ethics Act) prohibits State employees from accepting non-State employment within one year of separation from State employment when the employee personally and substantially participated in the award of State contracts or change orders valued at \$25,000 or more to the prospective employer within one year prior to leaving State employment.¹ State agencies must determine which employees, by the nature of their duties, may participate personally and substantially in the awarding of such contracts.² The names of these employees are placed on a list commonly referred to as a “c-list.”

Any c-list employee who is offered non-State employment during their State employment or within one year of separation from State employment must notify the Office of Executive Inspector General (OEIG) prior to accepting such non-State employment.³ Notification requires that the employee complete a Revolving Door Notification of Offer form (RD-101), on which the employee is asked, among other things, whether he or she participated in any decision to award a contract or change order to the prospective employer during the year prior to termination of State employment.⁴ In addition, the Ethics Officer for the State employing agency completes an Ethics Officer’s Revolving Door Statement (RD-102), including a description of the employee’s involvement with contract and change order processes at the agency during the year prior to the employee’s termination of State employment.⁵

Upon receipt of a revolving door notification, the OEIG examines whether the employee participated personally and substantially in awarding a State contract valued at \$25,000 or more to the prospective employer, or in a licensing or regulatory decision that directly applied to the prospective employer.⁶ If the OEIG finds personal and substantial participation, the employee will be restricted from accepting the non-State employment offer for one year after termination of State employment.⁷ Any employee who knowingly accepts non-State employment in violation of the Ethics Act’s revolving door provisions may be subject to a fine of up to three times the total annual compensation that would have been obtained in violation of the provision.⁸

In addition to the obligations imposed by the Ethics Act, since December 30, 2009 the Illinois Department of Transportation’s (IDOT) Revolving Door Policy has provided:

¹ 5 ILCS 430/5-45(a). The revolving door restriction also applies to employees who personally and substantially participated in making a regulatory or licensing decision that directly applied to the prospective employer. 5 ILCS 430/5-45(b).

² 5 ILCS 430/5-45(c).

³ 5 ILCS 430/5-45(f).

⁴ See 2 Ill. Admin. Code § 1620.610(c).

⁵ See *id.*

⁶ 5 ILCS 430/5-45(f).

⁷ *Id.* See also 2 Ill. Admin. Code § 1620.610(d). In 2020, the OEIG restricted 2% of the c-list employees who submitted Revolving Door Notification of Offer forms.

⁸ 5 ILCS 430/50-5(a-1).

No Blanket Recusals. Blanket recusals during an employee’s final year of department employment regarding all possible future employers for the purpose of avoiding all possible application of the revolving door ban shall not be approved.⁹

Similarly, a 2014 provision in IDOT’s Personnel Policies Manual warns:

Blanket recusals will not be granted if the basis of the proposed recusal is in anticipation of future employment.¹⁰

By contrast, if a c-list employee enters into active discussions with a *particular* prospective non-State employer, these policies prescribe a specific process to use to ensure there is no conflict of interest with the employee’s IDOT duties.¹¹

In November 2020, then-IDOT Region One Regional Engineer [Employee 1] submitted revolving door notifications to the OEIG regarding employment offers he had received from three different consulting firms in October and November 2020.¹² In his notifications, [Employee 1] submitted that he “did not approve consultant change orders (supplements),” and “did not participate in consultant selection within the last year.” The OEIG did not restrict [Employee 1] from accepting those offers. However, because it appeared that [Employee 1] used a blanket recusal in anticipation of future employment, the OEIG self-initiated this investigation to examine the extent to which [Employee 1] and other IDOT c-list employees used blanket recusals in the year before they left IDOT employment to avoid revolving door restrictions.¹³

II. INVESTIGATION

A. [Employee 1]’s Recusal

1. Interview of [Employee 1]

The OEIG interviewed [Employee 1] on December 22, 2020 in this investigation.¹⁴ [Employee 1] said that he had been the IDOT Region 1 Regional Engineer since February 2017, and that in that position he oversaw the construction, operation, and maintenance of the highway systems in the six collar counties surrounding Chicago. [Employee 1] said that his duties included approving “supplements,” which are consultant engineering contract change orders. He said that

⁹ IDOT Revolving Door Policy.

¹⁰ IDOT Personnel Policies Manual, §15-3 (2014).

¹¹ The Revolving Door Policy states that under those circumstances the Ethics Officer, in consultation with supervisory personnel, determines “whether recusal as to *that specific prospective employer* will adequately remedy or mitigate the conflict of interest.” IDOT Revolving Door Policy (2009) (emphasis added). Similarly, the Personnel Policies Manual provides that if a conflict exists because of “*active employment negotiations with a specific employer*, [the Office of Chief Counsel] will determine what the appropriate remedy should be.” IDOT Personnel Policies Manual, §15-3 (2014) (emphasis added).

¹² The Revolving Door Notification of Offer forms were dated November 13, 2020.

¹³ In addition, an anonymous complaint filed in OEIG case number [Redacted] alleged, among other things, that it is a common practice for IDOT professional employees to withdraw themselves from the consultant selection process “a couple of years in advance of their retirement” so that they can begin working for a consultant immediately. That allegation is addressed in this investigation.

¹⁴ [Employee 1] also was interviewed on November 19, 2020 in the revolving door process.

he also had been one of seven members of the Consultant Selection Committee, and that in that role he took consultant recommendations for his region to the Committee and voted on them.¹⁵ [Employee 1] said that he had reported to Acting Secretary Omer Osman since November 16, 2019.

[Employee 1] said that because he planned to retire from IDOT, he told the Consultant Selection Committee, in October 2019, that he would be recusing himself from future meetings, and thereafter he did not participate in the January, April, July, and October 2020 meetings. In addition, he said he started recusing himself from handling supplements for all vendors beginning January 1, 2020. [Employee 1] said that he recused himself before the three consulting firms identified in his revolving door forms contacted him to ask if he would be interested in positions. [Employee 1] explained that he understood that based on his position at IDOT, he had to recuse himself to get through the revolving door process. He added that he had been told this through the years, that previous IDOT employees had recused themselves, and that this practice had been going on for years, since the revolving door rules took effect.¹⁶

[Employee 1] said that during meetings in 2019 and 2020, he told Mr. Osman that he planned to retire from IDOT at the end of 2020 and get a job with a consulting firm. [Employee 1] said he told Mr. Osman that he would be recusing himself, and Mr. Osman said ok. [Employee 1] said he did not make a formal written recusal request, and that there was nothing in writing between himself and Mr. Osman about the recusal. [Employee 1] said that he verbally told his subordinate, Program Development Engineer [Employee 2], that he would not be signing the supplements anymore, and gave him his signature authority, and that [Employee 2] also took his place on the Consultant Selection Committee.

[Employee 1] said that he had been told that blanket recusals shall not be approved in the final year, and recalled that four or eight years ago, his former supervisors, Regional Engineers [Employee 3] and [Employee 4], told him about the IDOT policy prohibiting blanket recusals. However, [Employee 1] explained that he did not think his recusal violated the policy because he viewed a blanket recusal as not doing your job in its entirety, and he only recused himself from consultant selection and the approval of supplements. In addition, [Employee 1] said that he had heard that Civil Engineer III [Employee 5] and IDOT employee [Employee 6] had recused themselves from their duties, and that [Employee 3], [Employee 4], Materials Engineer/Bureau Chief [Employee 7],¹⁷ Director of Highways Project Implementation [Employee 8], Bureau Chief of Design [Employee 9], and “4,000” other people at IDOT had done it too.

2. Interview of [Employee 2]

On February 9, 2021, the OEIG interviewed [Employee 1]’s former subordinate, Program Development Engineer [Employee 2]. [Employee 2] confirmed that in late 2019, [Employee 1]

¹⁵ Applicable administrative rules require one of the members of the Consultant Selection Committee to be the Regional Engineer, or his or her designee, or the Bureau Chief (or designee) from the requesting division or office, as designated by the Director. 44 Ill. Admin. Code § 625.90(b)(B).

¹⁶ A version of the Ethics Act’s revolving door provision was first enacted in 2003, and subsequently was amended.

¹⁷ The OEIG confirmed that in a May 11, 2020 revolving door interview in OEIG revolving door case number [Redacted], [Employee 7] told the OEIG that about a year earlier, he had recused himself from participating in consultant selection.

delegated his signature authority to him because [Employee 1] anticipated retiring from IDOT. [Employee 2] described this delegation as a “soft recusal” that [Employee 1] communicated to him in conversations, and said that there was no formal process or anything in writing for soft recusals. [Employee 2] explained that the recusal was done this way to avoid raising staff suspicions about where managers would be in a year. [Employee 2] said he had not had any training on supplements, but that he was familiar with them through his work in planning and as a consultant manager, and said he had signed off on lower-level supplements before [Employee 1] recused himself.¹⁸ [Employee 2] also confirmed that he took [Employee 1]’s place on the Consultant Selection Committee beginning in January 2020, and said that he went to the October 2019 Consultant Selection Committee meeting with [Employee 1] because [Employee 1] wanted to make sure he saw how to do it.

[Employee 2] said he was not aware of IDOT’s policy prohibiting blanket recusals. When asked whether it is common for IDOT employees who are planning to retire to recuse themselves from a category of job duties, he said that the vast majority of IDOT employees who planned to work for consultants or contractors after retiring from IDOT recused themselves to avoid the perception of a conflict of interest, and that it was known that you have to be out of the business for a year. [Employee 2] said that in addition to [Employee 1], other IDOT employees who have recused themselves included [Employee 4], [Employee 3], [Employee 9], and Bureau Chief in Programming [Employee 10].¹⁹

B. Additional Recusals Identified

Because [Employee 1], [Employee 7], and [Employee 10] indicated in their revolving door proceedings that they had recused themselves from IDOT duties during the year before they left State employment, the OEIG reviewed its revolving door files, and identified additional IDOT employees whose revolving door materials contained similar statements about their recusals.

1. [Employee 11] and [Employee 5]

In a Revolving Door Notification of Offer form dated February 8, 2021 and submitted to the OEIG, then IDOT Area Construction Supervisor/Civil Engineer VI [Employee 11] notified the OEIG of an employment offer from a consulting firm that had contracts with IDOT.²⁰ On that form, [Employee 11] stated that in January 2020 he had notified District Implementation Engineer [Employee 12] that in anticipation of his retirement on March 31, 2021 and “possible future employment,” he “officially recuse[d]” himself from the selection, negotiation, administration, evaluation and “all other activities associated with Phase three consultant engineering contracts,” except for the discussion of constructability issues on currently-assigned contracts. The OEIG obtained a recusal memorandum from [Employee 11] to [Employee 12], which was dated January 31, 2020, and was consistent with [Employee 11]’s description of his recusal notification in his

¹⁸ The OEIG obtained and reviewed supplements executed in [Employee 1]’s region in 2020. They included signatures in Mr. Osman’s name, in many cases with an illegible initial next to them, and generally also included signatures in various other names, such as the Engineer of Design and Environment.

¹⁹ The OEIG confirmed that in the materials submitted to the OEIG with his June 20, 2017 Revolving Door Notification of Offer form in OEIG revolving door case number [Redacted], [Employee 10] stated: “Starting July 1, 2016, I recused myself from all consultant contracting activities.”

²⁰ OEIG revolving door case number [Redacted].

revolving door materials. A notation on the memorandum indicates that it was emailed to IDOT Ethics Officer [Employee 13] on August 17, 2020.

Previously, in a Revolving Door Notification of Offer form dated August 19, 2020 and submitted to the OEIG, [Employee 11]’s subordinate, then-IDOT Civil Engineer III [Employee 5] stated: “As I knew I was retiring at the end of 2020, I recused myself; this was to ensure that I was following the Revolving Door Policy to avoid any conflict of interest.”²¹ [Employee 5] had been offered a position with the same consulting company that offered a position to [Employee 11]. The OEIG did not restrict either [Employee 11] or [Employee 5] from accepting their employment offers.

[Employee 11] was interviewed on March 10, 2021 in this investigation, regarding his and [Employee 5]’s recusals. [Employee 11] said that he had been an Area Construction Supervisor at IDOT for 16 years, and that his duties included supervising construction activities for State projects. He said that he planned to resign from IDOT in 2020 or 2021, and that because it was a possibility that he might go to work elsewhere after that, in late 2019 he recused himself from consultant selection and evaluation.²² He explained that he could not work for any vendors that could employ him in the future if he did not recuse himself. [Employee 11] said he recused himself before he started looking for another job, and that he started looking for another job a couple of months before his OEIG interview. [Employee 11] said he told his supervisor, Bureau Chief of Construction [Employee 14], about the recusal in late 2019, and he sent a recusal memorandum to [Employee 12], [Employee 1], and [Employee 13]. He said that no one told him that he could not recuse himself.

[Employee 11] said that he was [Employee 5]’s supervisor at IDOT, and that [Employee 5] left IDOT in December 2020. [Employee 11] said that beginning in late 2019, [Employee 5] recused himself from various duties, including supervising construction projects on a Chicago interchange; and supervising, signing invoices for, and evaluating consultant companies. [Employee 11] said he told [Employee 5] that that was okay, and that his duties would be performed by other resident engineers. [Employee 11] said he was not aware of the blanket recusal policy, but that he did not consider his or [Employee 5]’s recusals to be blanket recusals because they did not recuse themselves from all of their duties.

2. [Employee 15]

In a Revolving Door Notification of Offer form dated November 30, 2018 and submitted to the OEIG, then-IDOT Office of Planning and Programming Director [Employee 15] notified the OEIG of an offer of employment from a consulting firm that had subcontracts on IDOT projects.²³ In materials submitted with that form, [Employee 15] stated: “ I have delegated my authority for [consultant] selection since October 2017 to my Bureau Chief of Planning.” The OEIG did not restrict [Employee 15] from accepting the employment offer from that consulting firm.

²¹ OEIG revolving door case number [Redacted].

²² Although [Employee 11] said he began recusing himself in late 2019, he said he officially considered the recusal date to be January 31, 2020.

²³ OEIG revolving door case number [Redacted].

[Employee 15] was interviewed on January 8, 2020 in another OEIG investigation.²⁴ She stated that during her first year as Director of IDOT's Office of Planning and Programming, she served on the Consultant Selection Committee. However, she said she recused herself from that committee beginning in October 2017 because she understood that planning or providing input on contracts would put her at a competitive disadvantage for future employment, and she did not want to limit her opportunities in the event that she left IDOT employment at the end of 2018. [Employee 15] said that she delegated her authority as a member of the Consultant Selection Committee to the Bureau Chief of Programming. She said she left IDOT around December 31, 2018.

3. [Employee 16]

In a Revolving Door Notification of Offer form dated November 25, 2018 and submitted to the OEIG, IDOT Region 5 Regional Engineer [Employee 16] stated that he had delegated various duties to other staff, including authority over change orders, decisions on awarding projects from letting, and the selection of consultants.²⁵ In an interview as part of the revolving door process, [Employee 16] stated that in August 2017 he delegated his authority in scoring consultant statements of interest and his Selection Committee responsibilities to his Bureau Chiefs because he was uncertain where he may work in the future and did not want to have any conflicts.

C. Interview Of IDOT Chief Counsel And Ethics Officer [Employee 13]

Investigators interviewed then-IDOT Chief Counsel and Ethics Officer [Employee 13] on April 29, 2021.²⁶ [Employee 13] said he had been the Ethics Officer since approximately December 2017 or February 2018. He described his duties as Ethics Officer as including receiving IDOT c-list employees' Revolving Door Notification of Offer (RD-101) forms and forwarding them to IDOT's Bureau of Investigation and Compliance, reviewing for accuracy the Ethics Officer's Revolving Door Statement (RD-102) forms that that Bureau prepared, and signing the materials before they are submitted to the OEIG. He said that during the revolving door process he sometimes reviews the employees' Revolving Door Notification of Offer forms, but does not always do so.

[Employee 13] said he was familiar with IDOT's "No Blanket Recusals" revolving door policy, and the IDOT personnel policy that states that blanket recusals will not be granted if the basis of the proposed recusal is in anticipation of future employment. He said he was not involved in implementing these policies, but that he was told that they were implemented because there had been concern that employees were not doing any of their job duties.²⁷ [Employee 13] said that

²⁴ In that investigation, number [Redacted], the OEIG found that although [Employee 15] had notified the OEIG of the employment offer from the consulting firm, she violated the revolving door provisions of the Ethics Act by failing to notify the OEIG of an employment offer from a different organization, and accepting employment and receiving compensation from that organization. [The Commission exercises its discretion to redact this sentence pursuant to 5 ILCS 430/20-52.].

²⁵ OEIG revolving door case number [Redacted]. In his revolving door interview, [Employee 16] described letting as a process in which contractors submit bids and the lowest bidder is selected and awarded a contract.

²⁶ [Employee 13] left IDOT employment effective April 30, 2021.

²⁷ In a March 31, 2021 interview in OEIG investigation number [Redacted], a former IDOT Project Engineer, [Employee 19], also said that the recusals had burdened the other employees who had to take on the additional duties,

“blanket recusal” is not defined in writing, but that he understood it to mean when a person is not going to participate with any contractor or vendor at all, even though their regular duties would have that person in contact with contractors or vendors. [Employee 13] said that the goal is to have employees performing their job duties and not just coasting.

[Employee 13] said that if an employee said they were not going to participate in anything relating to any consultants or the Selection Committee for a year in order to avoid the revolving door requirements, it could be a violation of the “No Blanket Recusals” policy. He said he did not recall talking to any particular employees about these policies, but that he has generally told employees that they could recuse themselves from duties relating to one prospective employer, but not from everyone. [Employee 13] said he has discussed these policies with Mr. Osman, and said the discussions probably were general conversations, but he did not recall when the conversations occurred or anything specific about what they discussed.

[Employee 13] confirmed that the Ethics Officer’s Revolving Door Statements for [Employee 1], [Employee 11], [Employee 5], [Employee 16], and [Employee 15] were sent to him for review. However, he said he did not recall whether he noticed the statements on their Revolving Door Notification of Offer forms regarding recusing themselves from certain categories of duties prior to leaving IDOT employment.²⁸ [Employee 13] opined that some of the recusals discussed in the interview probably violated the blanket recusal policies, and explained that if the employees’ duties included participating in procurement and they stopped all participation in procurement for the last year to keep their revolving door options open, that would violate the policies. He also said he did not recall the memorandum from [Employee 11] regarding his recusal, but upon reviewing it during the interview he said that he would not have approved it, and that it should have prompted follow up to tell [Employee 11] to pick one rather than doing a blanket recusal.

D. Interviews Of Acting Secretary Omer Osman

IDOT Acting Secretary Omer Osman was interviewed on September 15, 2020 in another investigation, on November 23, 2020 in [Employee 1]’s revolving door process, and on April 29, 2021 in this investigation.

September 15, 2020 Interview (Previous Investigation)

The OEIG interviewed Mr. Osman on September 15, 2020, in another investigation.²⁹ In that interview, regarding general employee recusals, Mr. Osman stated that he was not aware of IDOT c-list employees saying that they were “not going to work with such and such firm because

and that they created gridlock. However, he maintained that approximately 18 months to 2 years before he left IDOT at the end of 2019, employees stopped recusing themselves.

²⁸ In addition, [Employee 13] recalled that [Employee 8] had recused himself from consultant selection when the consultant firm for which [Employee 8]’s son worked was a prime consultant candidate, but said he did not recall [Employee 8] recusing himself from other duties. [Employee 13] said he was familiar with [Employee 4] and [Employee 9], but did not recall them recusing themselves from any job duties. [Employee 13] was also asked about recusals by [Employee 3], [Employee 7], [Employee 6], [Employee 20], and [Employee 10], but said he did not recall those employees.

²⁹ OEIG investigation number [Redacted].

I [got to] . . . do the revolving door . . . I'm a C lister and I [got to] stay away for 12 months or whatever that is," and that he did not think that was a common practice. Mr. Osman said that typically, a request for such a recusal would not be granted, adding: "I don't think the department will grant somebody . . . that request because potentially 12 months down the road, I am going to be working for that company."

November 23, 2020 Interview ([Employee 1]'s Revolving Door Process)

A little over two months later, on November 23, 2020, the OEIG interviewed Mr. Osman as part of [Employee 1]'s revolving door determination process. In that interview, Mr. Osman confirmed that he had been [Employee 1]'s supervisor for the previous year. He stated that late in the previous year, [Employee 1] recused himself from the consultant supplement approval process, and that [Employee 1] had a conversation with him regarding recusing himself. As a result, Mr. Osman said, [Employee 1] had not been involved in consultant supplements or selections during the previous year.

April 29, 2021 Interview (Current Investigation)

The OEIG interviewed Mr. Osman in this investigation on April 29, 2021. Mr. Osman stated that he has worked for IDOT since 1989 in various capacities, including Assistant Planner, Assistant Resident Engineer, Resident Engineer, Assistant Squad Leader, Senior Resident Engineer, Supervising Field Engineer, Construction Engineer, Operations Engineer and Bureau Chief of Operations, Region 5 Regional Engineer/Deputy Director of Highways, Director of Highways, Chief Engineer, and Deputy Secretary. Mr. Osman said that most recently, he has been IDOT's Secretary for over two years.

Mr. Osman said that during his tenure at IDOT, he has supervised employees who were on the revolving door c-list, and that he himself was on the c-list in some of his prior positions at IDOT.³⁰ In this interview, Mr. Osman said it is very common for IDOT employees to go work for IDOT vendors after they leave IDOT employment, and that it is a common practice for employees to delegate their duties to other employees when they are anticipating retiring from IDOT. He said he is aware of various c-list employees recusing themselves from their IDOT duties during the year before they left IDOT employment when they were anticipating retiring, and that employees who did so when they reported to him included [Employee 8], [Employee 4], and [Employee 1]. Mr. Osman said he recalled being interviewed by the OEIG on September 15, 2020, but that he did not recall saying in that interview that he did not think it was a common practice for employees to recuse themselves a year in advance of their retirement, or saying that a request for a recusal like that would not typically be granted.

Mr. Osman said that [Employee 8] reported to him when Mr. Osman was Deputy Secretary, and then continued to report to him when Mr. Osman became Secretary because the Deputy

³⁰ As an agency head, Mr. Osman is on the "h" list for revolving door purposes, meaning that he may not accept employment for a year after he leaves IDOT employment from any entity that, during the year prior to his separation from IDOT employment, was a party to an IDOT contract valued at \$25,000 or more, or was the subject of a regulatory or licensing decision involving IDOT, regardless of whether he participated personally and substantially in the award of the contract or the regulatory or licensing decision. See 5 ILCS 430/5-45(h).

Secretary position remained vacant. Mr. Osman said that as the Director of Highways, [Employee 8] served as the Chair of the Consultant Selection Committee.³¹ Mr. Osman said that at least a year before [Employee 8] left IDOT, he told Mr. Osman that he was recusing himself from chairing the Selection Committee because he was thinking about leaving IDOT and seeking other opportunities. Mr. Osman said that [Employee 8] did not say whether he had started talking to other potential employers, but that it seemed to him that [Employee 8] had not but was anticipating doing so. Mr. Osman said that he approved [Employee 8]’s recusal, but did not do so in writing.

Mr. Osman explained that in the past, verbal approval for such recusals had been acceptable, and that he had never seen anyone do it in writing. Mr. Osman said that for example, in 2009 or 2010, when he was a Bureau Chief and reported to Region 3 Regional Engineer [Employee 17], [Employee 17] was anticipating retiring and delegated his duties relating to the selection of engineering firms for District 4 to Mr. Osman. Mr. Osman said that he (Mr. Osman) also approved former Region 1 Regional Engineer [Employee 4]’s recusal from his duties relating to the consultant selection process (including serving on the Consultant Selection Committee), when Mr. Osman was the Director of Highways and [Employee 4] reported to him. Mr. Osman said there was nothing in writing relating to [Employee 17]’s delegation of duties to him, or of his (Mr. Osman’s) approval of [Employee 4]’s recusal. Mr. Osman said that he also heard that former Region 5 Regional Engineer [Employee 16] recused himself from direct involvement in the Quality Based Selection process when he was anticipating retiring, and that former Region 4 Regional Engineer [Employee 18] recused himself from the consultant selection process.³²

Mr. Osman said that [Employee 1] previously reported to [Employee 8], and then began reporting to him (Mr. Osman) when [Employee 8] left IDOT because the Director of Highways position remained vacant. Mr. Osman said that as Region 1 Regional Engineer, [Employee 1]’s duties included approving supplements and serving as a member of the Consultant Selection Committee for matters pertaining to projects within his district. Mr. Osman said that [Employee 1] left IDOT a few months before Mr. Osman’s April 29, 2021 interview, and that he heard that [Employee 1] went to work for [Consultant Firm 1], an IDOT consultant. Mr. Osman said that at least a year before [Employee 1] left, he told Mr. Osman that he was delegating his consultant selection duties (including his Consultant Selection Committee duties) to his subordinate Bureau Chiefs, including [Employee 2]. Mr. Osman said that [Employee 1] explained that he was doing so because he had the potential to retire and that there was “a potential for him to seek employment somewhere.” Mr. Osman said he approved [Employee 1]’s delegation of duties, and that nothing was put in writing because that was the practice that had been in place for a long time.

Mr. Osman stated that he first became aware of IDOT’s “No Blanket Recusals” policy five or six months before his OEIG interview, when he heard that [Employee 1] had been interviewed by the OEIG; Mr. Osman said that at that time, he inquired about the policy. He said that he was unaware until recently of the IDOT Personnel Policies Manual provision that stated that “[b]lanket recusals will not be granted if the basis of the proposed recusal is in anticipation of future employment.” When asked whether [Employee 1]’s recusal and the other employees’ recusals discussed in the interview violated these policies, Mr. Osman initially stated, “I can’t answer that

³¹ Applicable administrative rules provide that the Deputy Secretary of Transportation, or his or her designee, serves as the Chair of the Consultant Selection Committee. 44 Ill. Admin. Code 625.90(a).

³² Mr. Osman said that both [Employee 16] and [Employee 18] reported to [Employee 8] before they left IDOT.

question.” He then stated that he understood a blanket recusal to not be doing any duties that are procurement in nature, and added, “‘blanket’ means ‘all’ to me.” Mr. Osman said that [Employee 1]’s recusal was not a blanket recusal, and noted that [Employee 1] had procurement duties in areas other than consultant selection, such as signing off on construction contracts. However, Mr. Osman said that IDOT did not have a good grasp of the policy, and that he had told the new IDOT Deputy Secretary of Administration, Diversity, and Legal Affairs that it is an area of concern that they need to look at.

III. ANALYSIS

There has been a long-standing practice at IDOT of employees attempting to avoid revolving door restrictions by abdicating job duties and having other employees take up that slack for a year prior to their departure. Seemingly, IDOT recognized this issue and put into place a prohibition on any recusals of work duties involving “*all*” future employers – known as a blanket recusal. As is evident from this investigation, this policy has not been followed by IDOT employees, including those in the highest ranks of IDOT. Such extensive efforts to evade important revolving door protections is particularly troubling, given the significant amount of contracting that IDOT does in Illinois, not to mention the burden this can place on other employees or the possibility that those employees may not have the authority to conduct the delegated duties.³³

In January 2020, in anticipation of his retirement from IDOT at the end of 2020 and before he started having conversations with any potential employers, [Employee 1] began recusing himself from his State duties relating to supplements regarding *all* vendors, including signing off on supplements, and making recommendations and voting relating to consultant selection. With Mr. Osman’s approval, [Employee 1] delegated these duties to his subordinates, including [Employee 2]. The investigation revealed that this practice was common; numerous other IDOT employees similarly stopped doing categories of their duties for *all* vendors before they started looking for other work or entered into discussions with particular prospective employers. As [Employee 1] put it, “4,000” other people at IDOT have done this over the years.

IDOT’s “blanket recusal” policy clearly prohibits approving a recusal regarding “*all*” potential future employment for the purpose of avoiding revolving door restrictions when an employee leaves IDOT.³⁴ Understandably problematic, recusing oneself from work with “all” potential future employment would mean employees categorically abdicating job duties in order to avoid any and all possible restrictions on future employment. By contrast, if a c-list employee enters into discussions with a *particular* prospective non-State employer, IDOT policies prescribe a specific process to use to ensure there is no conflict of interest with the employee’s IDOT duties. The Revolving Door Policy states that under those circumstances the Ethics Officer, in consultation with supervisory personnel, determines “whether recusal as to *that specific prospective employer* will adequately remedy or mitigate the conflict of interest.”³⁵ The Personnel Policies Manual provides that if a conflict exists because of “*active employment negotiations with*

³³ For example, IDOT Departmental Order 02-02 and IDOT’s Bureau of Design and Environment Manual outline how the IDOT Secretary’s signature authority may be delegated, and require signatures at particular levels in certain circumstances.

³⁴ IDOT Revolving Door Policy (2009); Personnel Policies Manual, §15-3 (2014).

³⁵ IDOT Revolving Door Policy (2009) (emphasis added).

a specific employer, [the Office of Chief Counsel] will determine what the appropriate remedy should be.”³⁶

Mr. Osman is a 32-year IDOT veteran, having held numerous positions ranging from Assistant Planner to Regional Engineer to Acting Secretary. In addition, he himself approved blanket recusals of at least three direct reports, including [Employee 1]’s beginning in late 2019. Given this background, it is difficult to understand Mr. Osman’s assertion that he was unaware of IDOT’s policies regarding recusals. Even though Mr. Osman expressed that the blanket recusal policies were new to him, Mr. Osman opined that an employee would not be in violation of the policies unless an employee stops doing all of their procurement duties, even if they stop doing an entire category of duties short of that. Others interviewed in the investigation interpreted the policies as only prohibiting employees from ceasing doing their IDOT duties altogether.

Such interpretations ignore the plain language of the rule and would only serve to promote an end run around the purpose of the revolving door provisions of the Ethics Act – ensuring State employees serve the needs of their agencies, not their own personal benefit. Specifically, the IDOT Revolving Door Policy clearly references “all” with regard to future employers, stating that no employee can recuse themselves from working with “all” future employers. There is no basis to suggest that the “all” refers to duties. Second, such an interpretation is nonsensical. No State employee requires a policy to understand that employees cannot abdicate all of their work duties and somehow continue employment. A plain reading of the policies, and the distinction they draw with the situation in which an employee is actively engaged in negotiations with a specific prospective employer, reflect that IDOT appropriately prohibits recusals of duties involving *all* future employers for the personal benefit of the employee, no matter the quantity of duties abdicated.

Regardless of the existence of a blanket recusal policy, it is mismanagement to allow State employees to abdicate State job duties for the personal purpose of keeping their options open for speculative private sector employment in the future. State employees, paid with taxpayer funds, should work to serve the operational needs of their employing agencies. It is important to note that the Ethics Act’s revolving door provisions restrict employees who participated personally and substantially in the awarding of a contract to a prospective employer and thus, few c-list employees have ultimately been restricted from taking a job after leaving State employment. In 2020, only 2% of revolving door notifications resulted in restricted determinations. Even so, the OEIG’s investigation revealed that it has been a longstanding practice at IDOT for employees to stop doing entire categories of their State duties for a year or more, in order to ensure their future options for private sector employment. This practice has been used and/or condoned at the highest levels of IDOT management for years, despite policies prohibiting this conduct. **[REDACTED]**.³⁷

In this case, Acting Secretary Osman approved several employees abdication of duties involving all vendors during their final year of IDOT employment, in anticipation of possible

³⁶ IDOT Personnel Policies Manual, §15-3 (2014) (emphasis added).

³⁷ The OEIG concludes that an allegation is “[REDACTED]” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

future employment and/or for the purpose of avoiding revolving door restrictions. The allegation that Mr. Osman [redacted] violated IDOT policy by doing so is [REDACTED].

IV. [REDACTED] AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING [REDACTED]**:

- [REDACTED]
- [REDACTED] – Acting IDOT Secretary Omer Osman [redacted] violated IDOT policy by approving employees’ blanket recusals from duties involving all vendors during their final year of IDOT employment, in anticipation of possible future employment and/or for the purpose of avoiding revolving door restrictions.

[Redacted]³⁸

The OEIG recommends that the Office of the Governor take appropriate action regarding Mr. Osman, and work with IDOT to ensure that IDOT employees are working for the State’s interest and not abdicating their duties for a year regarding all vendors in order to preserve their own speculative employment prospects. If deemed necessary, IDOT should consider clarifying its blanket recusal policies and ensure that IDOT employees understand their responsibilities under those policies and comply with them.

³⁸ [Redacted]

No further investigative action is needed, and this case is considered closed.

Date: July 9, 2021

Office of Executive Inspector General
for the Agencies of the Illinois Governor
607 E. Adams, 14th Floor
Springfield, IL 62701

By: Angela Luning
Deputy Inspector General and Acting Chief
of Springfield Division

Mark Garst
Investigator



OFFICE OF THE GOVERNOR

207 STATE HOUSE
SPRINGFIELD, ILLINOIS 62706

JB PRITZKER
GOVERNOR

July 28, 2021

BY ELECTRONIC MAIL

Susan M. Haling
Executive Inspector General
Office of the Executive Inspector General for the Agencies of the Illinois Governor
69 West Washington Street, Suite 3400
Chicago, Illinois 60602

RE: Response to the Final Report for OEIG Case Number 20-02136

Dear Executive Inspector General Haling:

Please allow this letter to serve as the first response from the Office of the Governor to the Final Report for OEIG Case Number 20-02136. The Report includes two [REDACTED], as well as recommendations for remediation. The Office of the Governor takes the findings and recommendations very seriously. We have carefully reviewed the report and are now working with IDOT, and specifically, with the Deputy Secretary of Administration, Diversity and Legal Affairs, [REDACTED], to determine how to revise the Department's policies and practices in light of the Report. We would like to request an additional month to prepare a detailed response on the steps that will be taken based on the Report.

If you have any questions, please feel free to contact me or [REDACTED], the Ethics Officer for the Office of the Governor.

Sincerely,

/s/ Ann M. Spillane

Ann M. Spillane
General Counsel



OFFICE OF THE GOVERNOR

207 STATE HOUSE
SPRINGFIELD, ILLINOIS 62706

JB PRITZKER
GOVERNOR

March 4, 2022

BY ELECTRONIC MAIL

Susan M. Haling
Executive Inspector General
Office of the Executive Inspector General for the Agencies of the Illinois Governor
69 West Washington Street, Suite 3400
Chicago, Illinois 60602

RE: Response to the Final Report for OEIG Case Number 20-02136

Dear Executive Inspector General Haling:

Please allow this letter to serve as the final response from the Office of the Governor to the Final Report for OEIG Case Number 20-02136. The Report identified significant weaknesses in the recusal policies and practices at the Illinois Department of Transportation (“IDOT”), including a longstanding practice of allowing “blanket” recusals, misunderstanding of and confusion regarding the recusal policy among IDOT staff and leadership, minimal documentation of approved recusals, and a disconnect between IDOT’s paper policies and its actual practices. We appreciate the OEIG’s thorough review of this matter, bringing these deficiencies to our attention, and providing your feedback as the Governor’s Office worked with IDOT to develop new processes to address these problems.

The work of ensuring that recusals are appropriate, that there are clear policies and procedures in place, and that IDOT staff and leadership understand and adhere to those policies and procedures will be ongoing. To date, we have taken a number of important steps:

- Prior to the issuance of the Report, the Governor’s Office and Secretary Osman had identified the need for additional focus on IDOT’s ethics and compliance work. In early 2021, the Governor’s Office and IDOT created a new position – Deputy Secretary of Administration, Diversity & Legal Affairs – in order to serve as a senior member of IDOT’s leadership team focused on these issues. The Governor’s Office and IDOT leadership selected [REDACTED], a senior lawyer with deep knowledge of State government and compliance and ethics, to serve in that role.
- Similarly, it was critical that IDOT identify experienced attorneys to fill the Chief Counsel and ethics officer roles at IDOT after [REDACTED] left IDOT in spring of 2021. IDOT hired [REDACTED], an experienced attorney with prior experience at IDOT, the Illinois Department of Financial and Professional Regulation, and the Attorney General’s Office as

the new Chief Counsel on June 1, 2021. On October 1, 2021, [REDACTED], an experienced attorney and ethics officer, joined the Department as Deputy Chief Counsel for Ethics, Personnel, and Labor Relations.

- The Governor's Office and IDOT leadership tasked Deputy Secretary [REDACTED], Chief Counsel [REDACTED], and Deputy Chief Counsel [REDACTED] with creating a required recusal form, updating personnel policies, and developing a proposal for how to revise IDOT's processes in order to address the deficiencies identified by the Report. This IDOT team dedicated a significant amount of time to speaking with engineers and other IDOT employees to understand practically how recusals could be available on a limited basis while at the same time ensuring that IDOT's operations would not be affected.
- In November 2021, the Governor's Office and these IDOT attorneys shared draft recusal forms with the OEIG and met to discuss the forms and needed policy and process changes. We appreciate your willingness to engage in those discussions and found the OEIG's input to be extremely helpful.
- As the work of formally updating forms and policies has been ongoing, IDOT is instituting changes to ensure that blanket recusals are not approved in the interim period. Approval for recusals now run through the supervisor, Director of Highways (if applicable), ethics officer, and Deputy Secretary in order to ensure that recusals are tailored, that blanket recusals are not approved, and that appropriate scrutiny is provided to recusals before they are approved.
- IDOT has continued its work of formally adopting a new policy that will reflect its new process. We expect that step to be complete by the end of March, and we will continue to apprise the OEIG of IDOT's efforts. IDOT recognizes that training and educating its employees regarding the new policy will be an important next step.

There are a number of considerations that the Governor's Office and the IDOT team are evaluating as we assess why IDOT developed a longstanding practice of blanket recusals and how to move forward in a better way. Of primary importance is adhering to both the letter and the spirit of the Ethics Act and its revolving door restrictions. Likewise, it is critical that recusal policies are clear and that any approved recusal is not a blanket recusal and does not amount to an overall reduction in the duties required of a full-time IDOT employee. At the same time, we recognize that it is critical that IDOT is able to attract and retain talented employees. IDOT has difficulties competing with the private sector for talent, particularly for highly qualified engineers, and those difficulties create a risk that the agency will not be able to meet important road project deadlines. As a result, it is important that there are pathways for advancement within IDOT but also that its employees can dedicate part of their career to public service without closing the door to later working in the private sector. The Report has led us to reassess how IDOT can accomplish these goals in an appropriate way.

The Governor's Office has spoken with Secretary Osman about this problem and about the Report and its [REDACTED], including the [REDACTED] that Secretary Osman did not manage the revolving door process effectively and did not follow IDOT policy regarding blanket recusals. Secretary Osman accepts the [REDACTED]. Although Secretary Osman did not intentionally violate IDOT policy, he recognizes that the Department should have conducted a renewed evaluation of historical practices

regarding recusals to determine whether those practices and policies required modification, and that he is responsible for allowing those practices to continue during his tenure. Secretary Osman endorses the ongoing revision of the recusal process and commits to its implementation upon completion. He also acknowledges that the responsibility for approving recusals should have been delegated to an employee responsible for all such requests and that, overall, he should have involved the agency's counsel and ethics officer in all of these decisions. As indicated above, under Secretary Osman's leadership and direction, IDOT has added the new Deputy Secretary and an experienced ethics officer and is ensuring that they implement and oversee a revised recusal process.

Thank you for your attention to this matter and for the detailed review and findings in the Report. If you have any questions, please feel free to contact me.

Sincerely,

Scott Lerner
Deputy General Counsel

February 24, 2023

Ms. Michelle Casey
Executive Director
Executive Ethics Commission
401 S. Spring Street, Suite 515
Springfield, IL 62706

Dear Executive Director Casey,

I am in receipt of your letter dated January 20, 2023. The registered mail was received on Saturday February 4, 2023. This letter is a revised version of a previous letter dated January 19, 2023.

Thank you for the opportunity to allow me to respond. I take this situation extremely seriously and am thankful that this report has shed light on improvements that the Department needs to make to assure to the public that our employees are meeting their ethical obligations. I regret any confusion on my part over the term "Blanket Recusal." I never intended to misrepresent to anyone my understanding.

I acknowledge and accept the facts that were identified by the OEIG and as Secretary, take full responsibility for correcting these processes for employees interested in changing employment. Accordingly, I have already made changes to our internal process for the Department's C-list employees, as they look to transition to private industry or employment outside of the Department.

As stated previously by Mr. Scott Lerner, Deputy General Counsel in the Office of the Governor in his letter March 4, 2022, I have implemented controls, including filling the positions of Chief Counsel and Ethics Officer, [REDACTED]. Since [REDACTED] joined the Department in October of 2021, she has traveled to IDOT district offices and provided a series of Webex trainings to C-list employees to educate them of the revolving door process and explain why they have been identified as C-list employees. She is also available as a resource to all C-list employees as they navigate the revolving door process. In addition to presentations on the revolving door, the Department will provide written notice to all employees of the changes to the Personnel Policy Manual related to the revolving door policy and "Blanket Recusals".

The Department has identified areas of the revolving door process where clarification was needed, including updating the Personnel Policy Manual (PPM) to strictly prohibit the use of "Blanket Recusals". The changes to the PPM include defining the term "Blanket Recusals". The Department also developed a form for C-list employees who seek to request a recusal from a specific potential future employer. The form is reviewed by the employee's supervisor and the Ethics Officer to determine whether the recusal is appropriate based on several factors, including how much of an employee's job duties would be required to shift to a different employee to avoid conflicts of interest.

I would like to unequivocally state that over three decades of my career as a public servant with the Department that I literally call home, I strived to conduct myself with the utmost ethical standards and fairness. As Secretary, I am mindful and aware of the immense obligations and responsibilities the position of the Secretary of Transportation entails.

Ms. Michelle Casey
February 24, 2023
Page Two

To the extent the Commission seeks to publish the report, I request the Commission accept the redactions to the report included with this letter, specifically, the two proposed redacted paragraphs on page 12 of the report.

I am concerned that the publication of this report may create perception that the Department has not already been taking action to address and correct these deficiencies. Allowing me and the Department to correct these issues in a judicious manner will provide a clear understanding and the Department's ongoing commitment to uphold the Ethics Act and revolving door restrictions, while at the same time providing the Department the flexibility it needs in attracting and retaining talented employees. At this time, it is especially crucial to attract professional employees as the Department moves forward in accomplishing the largest Capital Bill in its history.

Should the Executive Ethics Commission (EEC) choose not to publish this report, I request that I be notified upon that decision. However, should the EEC choose to publish the report in its entirety, I request that I be notified at least two weeks prior to the publication date.

In closing, I thank you again for allowing me the opportunity to respond. I hope that these continued improvements will uphold the ethical standards of the Department.

Sincerely,

A black rectangular redaction box covering the signature of Omer M. Osman.

Omer M. Osman, P.E.