IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: BOBBIE A. WANZO ) OEIG Case #14-00592

OEIG FINAL REPORT (REDACTED)

Below is an amended final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this amended final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Bobbie A. Wanzo at her last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

I. ALLEGATIONS

On March 27, 2014, the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) received an anonymous complaint alleging that in January 2014, the Illinois Department of Human Rights (IDHR) instituted a program under which it paid IDHR investigators extra money, in addition to their salaries, to complete more work during their normal work hours. The complaint further alleged that under earlier programs, IDHR investigators delayed submitting completed work until the programs began, so that they could collect overtime pay for that work under the programs, again without working more than their normal hours.
II. BACKGROUND

In support of its mission to "secure for all individuals within the State of Illinois freedom from unlawful discrimination," 1 IDHR employs approximately 42 investigators in its Charge Processing Division to investigate non-housing discrimination complaints. IDHR Charge Processing investigators are designated as Investigators I, II, or III, based on the complexity of the investigations they are assigned to conduct, with Investigator III positions handling the most complex cases. IDHR Charge Processing investigators are union employees represented by the American Federation of State, County and Municipal Employees Council 31, AFL-CIO (AFSCME).

The objective of an IDHR investigator is to "complete quality cases in a timely manner." 2 IDHR investigations may involve obtaining documents, conducting interviews, holding fact-finding conferences, facilitating settlement discussions, and writing reports on the merits. IDHR investigators are expected to complete their investigations within 180 days, to allow IDHR to meet its statutory obligation of issuing a report within 365 days after a discrimination charge is properly filed. 3

Each year, IDHR and the Equal Employment Opportunity Commission (EEOC) enter into a worksharing agreement, under which the EEOC pays IDHR for completing certain types of discrimination investigations. In 2014, for example, the EEOC paid IDHR $650 for each qualifying completed investigation.

III. INVESTIGATION

In this investigation, the OEIG obtained and reviewed documents, including union agreements, IDHR memoranda regarding incentive pay programs, and investigator case completion and time records. The OEIG also interviewed IDHR investigators and management personnel, and current and former Illinois Department of Central Management Services (CMS) personnel.

A. Administrative Rules Governing Incentive Pay

Rules issued by CMS delineate how State agencies may pay employees additional amounts above their salaries "for work performed in excess of the normal requirements for the position and work schedule." 4 Relating to incentive pay, those rules state that "[a]n employee may be paid an amount in addition to the employee’s base salary for work performed in excess of the normal work standard as determined by agency management." 5 The rules further state that such incentive pay "shall be at a wage rate and in a manner approved by the Director of Central Management Services," and that such approval is based on considerations that include the

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3 See 775 ILCS 5/7A-102(G)(1).
4 20 ILCS 415/8a; Ill. Admin. Code tit. 80 § 310.100(d).
5 Ill. Admin. Code tit. 80 § 310.100(d)(3).
employing agency’s need, the treatment of other similar situations, prevailing practices of other
employers, and equitable factors.  

B. IDHR Investigator Work Standards

In light of the rule that permits agencies to pay incentives to employees for work performed in excess of the normal work standard (with the approval of CMS’s Director), the
OEIG examined whether IDHR established work standards applicable to the IDHR investigator positions. Under the collective bargaining agreements, AFSCME and CMS agreed that “the
Employer has the right to establish reasonable workload standards and productivity levels.” The
agreements further provided that “[c]hanges in workload standards or productivity
measurements, or the creation of such, shall be discussed with the Union prior to
implementation.”

A January 11, 2006 agreement between IDHR and AFSCME established a quarterly
average work standard of seven cases per month for IDHR Investigator I and II positions, and six
cases per month for Investigator III positions. In other words, in a three-month period,
Investigators I and II are required to complete an average of seven investigations per month, and
Investigators III (who handle the most complex cases) are required to complete an average of six
investigations per month. IDHR Deputy Director Bobbie Wanzo signed the 2006 work standards
agreement on behalf of IDHR.

C. IDHR’s Incentive Pay Programs

Since at least 1993, IDHR has periodically implemented programs under which it paid
IDHR investigators extra money in addition to their salaries for completing investigations above
their production expectations. IDHR has implemented three such programs since 2012.

The OEIG obtained and reviewed IDHR memoranda issued to IDHR Charge Processing
investigators that described incentive pay programs that ran from April to May 2012 (Program
1), and from October 2012 through March 2013 (Program 2).  

According to the memoranda for both programs, IDHR paid investigators what it described as overtime for completing “EEOC contract eligible” cases over their work standards. Under these programs, IDHR paid the
investigators overtime based on the type of case or how it was resolved, rather than on the actual
time it took the investigators to complete it. For example, IDHR paid investigators three hours’
worth of overtime pay for extra cases that were resolved through settlement agreements. The
memoranda did not require investigators to have met their work standards in the periods prior to
the program periods in order to be eligible to receive extra pay.

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6 Id.
7 The latter program initially ran from October to December 2012, then was extended in a second session through
March 2013. This report discusses the sessions as a single program that ran from October 2012 through March
2013.
8 As noted above, under annual worksharing agreements, the EEOC pays IDHR for completing certain types of
discrimination investigations.
The OEIG also obtained an IDHR memorandum issued to IDHR Charge Processing investigators that described an incentive pay program that ran from January through July 2014 (Program 3). According to that memorandum, IDHR paid investigators what it described as incentive pay for completing “EEOC contract eligible” cases over their work standard. Under this program, IDHR paid the investigators an additional $250, $300, or $350 over their salaries per extra case completed, based on the complexity of the case. Unlike in Programs 1 and 2 described above, under Program 3, investigators were required to have met or exceeded their work standards for both the preceding three months and six months, in order to be eligible to receive extra pay under the program.9

D. IDHR Investigator Participation in the Incentive Pay Programs

OEIG investigators reviewed IDHR records showing how many investigators participated in the incentive pay programs between 2012 and 2014, and how much additional pay those investigators received. OEIG investigators determined that IDHR paid 37 investigators an approximate total of $120,173 of extra pay through Programs 1 and 2, and paid 17 investigators an approximate total of $53,750 of extra pay through Program 3.10

For example, as detailed in the chart on the following page, IDHR [Investigator 1] received approximately $17,900 in additional pay through Programs 1 through 3, by submitting extra cases over his average monthly production standard of 6 during those program periods.

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9 In other words, investigators were not eligible to participate in the program, even if they submitted enough cases to average their production requirement over the entire preceding 6 months, if they did not also meet their production requirement for the 3 months immediately preceding the time when they sought to earn incentive pay. As IDHR [Manager 1] later explained in an OEIG interview, the purpose of this requirement was to ensure that investigators were consistently meeting their production expectations over time.

10 The 2014 figures are taken from an IDHR chart titled “EIPP PAYMENTS/DEDUCTIONS TO BE PROCESSED,” which IDHR provided to the OEIG during this investigation. The number of investigators indicated as having participated in Program 3 does not include investigators who submitted extra cases under the program, but later were determined to have been ineligible to participate.
In addition, as detailed in the chart below, IDHR [Investigator 2] received approximately $19,000 in additional pay through Programs 1 through 3, by submitting extra cases over her average monthly production standard of 7 during those program periods.
E. Examination of IDHR Investigator Time Records

The OEIG next examined the time records of IDHR investigators who received extra pay under the incentive pay programs between 2012 and 2014, to determine whether those records reflected that the investigators worked their normal hours during the program periods, when they were completing cases above their work standards. IDHR investigators work a 37.5-hour week, and are required to record their time to the nearest quarter-hour on their time sheets. IDHR’s weekly time sheet forms have spaces for the employees to record their times “ON” and “OFF” work each day, their “HOURS ON STATE BUSINESS” each day, and their “TOTAL WEEKLY HOURS.”

As detailed in the chart below, the time sheets show that most of the IDHR investigators who received extra pay in the incentive pay programs between 2012 and 2014 recorded a weekly total of 37.5 hours spent on State business each week during the program periods.\(^\text{11}\)

<table>
<thead>
<tr>
<th>Program</th>
<th>Total Participants</th>
<th>Number Who Recorded 37.5 Hours Each Week During Program Period</th>
<th>Percentage Who Recorded 37.5 Hours Each Week During Program Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program 1</td>
<td>28</td>
<td>23</td>
<td>82%</td>
</tr>
<tr>
<td>Program 2</td>
<td>32</td>
<td>25</td>
<td>78%</td>
</tr>
<tr>
<td>Program 3</td>
<td>17</td>
<td>13</td>
<td>76%</td>
</tr>
</tbody>
</table>

F. Examination of Documents for Evidence that Investigators Were Holding Cases

As noted above, the complaint alleged that IDHR investigators delayed submitting completed cases until the incentive pay programs began, or “held” cases, in order to maximize the extra pay they could receive under the programs. In an examination of IDHR records, OEIG investigators determined that 8 of the 28 participants in Program 1, and 6 of the 32 participants in Program 2, exceeded their work standards in the first month of the program after failing to meet it in the month prior to the program.\(^\text{12}\)

G. Interviews of IDHR Investigators

The OEIG interviewed three IDHR investigators who received additional pay through the incentive pay programs between 2012 and 2014: [Investigator 3], [Investigator 1], and [Investigator 2].\(^\text{13}\)

\(^{11}\) On some of the time sheets, the times recorded “ON” and “OFF” work each day were inconsistent with the total number of “HOURS ON STATE BUSINESS” and “TOTAL WEEKLY HOURS.” In those instances, OEIG investigators used the amounts recorded for “HOURS ON STATE BUSINESS” and “TOTAL WEEKLY HOURS.”

\(^{12}\) Because Program 3 required IDHR investigators to have met or exceeded their work standards in the three months and six months prior to the program period in order to be eligible to participate, this examination was limited to Programs 1 and 2, which did not contain such a requirement.

\(^{13}\) Investigators selected [Investigator 3] to interview because she was identified as an individual who previously complained to others at IDHR about investigators holding cases under the incentive pay programs. Investigators
1. Interview of IDHR [Investigator 3]

The OEIG interviewed [Investigator 3] on June 3, 2015. [Investigator 3] has been an investigator in IDHR’s Chicago office since approximately [redacted], and received an approximate total of $2,531 in additional pay through Programs 1 and 2.

[Investigator 3] said that when an incentive pay program was announced shortly after she began working for IDHR, she did not intend to participate because she did not want to work extra hours. According to [Investigator 3], a coworker then explained to her that the extra pay was for completing additional cases, rather than for working additional hours. [Investigator 3] said that although she did not intentionally participate in any of the incentive pay programs, she nevertheless received extra pay for some additional cases she happened to complete in the regular course of her work. [Investigator 3] denied “holding” cases during periods without an incentive pay program so that she could later take advantage of a program,\(^{14}\) and did not identify any co-workers whom she believed had held cases.

[Investigator 3] said that she finds it difficult to complete seven cases per month, as she is required to do as an IDHR Investigator II. She said she has regularly worked more than 37.5 hours per week, although she did not work more hours during the incentive pay program periods than other times.\(^ {15}\) According to [Investigator 3], she did not receive any special instructions regarding how to complete her time sheets during the incentive pay program periods.

2. Interview of IDHR [Investigator 1]

The OEIG interviewed [Investigator 1] on July 23, 2015. [Investigator 1] has been an investigator in IDHR’s Chicago office since approximately [redacted], and, as noted above, received an approximate total of $17,900 in additional pay through the incentive pay programs between 2012 and 2014.

According to [Investigator 1], investigators were allowed to complete the extra cases under the incentive pay programs during their normal work hours. [Investigator 1] said that during the program in which he received the highest amount of additional pay, he completed the extra cases by working additional hours at home outside his normal work hours. However, he said, he never recorded any extra hours he worked on his time sheets.\(^ {16}\)

[Investigator 1] said that unlike in Program 3, IDHR investigators were allowed to participate in the previous incentive pay programs regardless of how they maintained their

\(^{14}\) IDHR case completion records show no instances in which [Investigator 3] exceeded her work standard in the first month of an incentive pay program after failing to meet her work standard in the month immediately prior to the program period.

\(^{15}\) [Investigator 3]'s time records reflect that she worked an average of slightly more than 40 hours per week on State business both during the program periods for which she received extra pay, and outside the program periods.

\(^{16}\) [Investigator 1]'s time records reflect that he worked 37.5 hours per week on State business during all of the program periods for which he received extra pay.
caseloads, and that investigators who were behind in their work could receive additional pay for completing cases that, in his opinion, they should have completed earlier. As [Investigator 1] explained, under the earlier programs, “you could conceivably get paid [overtime] for 12 extra cases that were already on your caseload and which you would conceivably have gotten paid for anyway because it’s your job.” [Investigator 1] said that during normal work hours, a competent investigator can complete the expected seven cases per month, and perhaps one to three additional cases.

When asked if he had ever “held” cases to take advantage of an incentive pay program, [Investigator 1] said that during Program 3 (which began in January 2014, and which he said investigators learned was coming around the holidays), he submitted a case for extra pay that he could have completed earlier. [Investigator 1] noted that under that program, investigators were required to meet their work standards in the months prior to the program in order to participate.\(^{17}\) [Investigator 1] said he did not believe investigators intentionally “held” cases because IDHR did not announce the programs ahead of time, and he did not hear talk around the office that a program was coming, other than Program 3.\(^{18}\)

[Investigator 1] said that currently, IDHR investigators are only allowed to earn overtime pay by working more than their scheduled hours, at the IDHR office, and that they are required to record their extra hours on their time sheets. [Investigator 1] says he does not currently earn overtime pay because he does not want to work additional hours at the IDHR office.

3. Interview of IDHR Investigator [Investigator 2]

The OEIG interviewed [Investigator 2] on August 25, 2015. [Investigator 2] has been an investigator in IDHR’s Springfield office since [year redacted], and, as noted above, received an approximate total of $19,000 in additional pay through the incentive pay programs between 2012 and 2014.

According to [Investigator 2], she completed some extra cases under the incentive pay programs during her normal work hours, but also regularly worked additional hours to complete extra cases. However, she said she did not record the additional time on her time sheets.\(^{19}\) She explained that because she received the extra pay by the case, she did not think it mattered whether she recorded her extra hours. [Investigator 2] said she received no instructions on how to complete her time sheets for the program periods.

[Investigator 2] said that although she is required to complete seven cases per month as an Investigator II, she typically completes eight to ten cases per month. She said she was able to complete many extra cases during Program 3 because when the program started she had worked

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\(^{17}\) IDHR case completion records show that in the month before Program 3 began, [Investigator 1] completed 13 cases, or 7 cases more than his work standard.

\(^{18}\) OEIG investigators confirmed that the memoranda that formally announced the programs were issued in the beginning of the periods in which the programs ran.

\(^{19}\) [Investigator 2's] time sheets consistently indicate that she worked 37.5 hours per week on State business, except for one week in February 2014, during Program 3, when [Investigator 2] recorded that she worked 43.5 hours.
her caseload down to the point that she was sitting at her desk with nothing to do, and therefore had the time to work on extra cases.

[Investigator 2] said that on one occasion she held cases in an effort to win an award for highest monthly production, but not in order to receive additional pay under the incentive pay programs. [Investigator 2] said she did not hear about the programs before the memoranda announcing them were issued, although she said that because the programs often were held in the spring the investigators might have been able to anticipate that a program was coming.

H. Interview of IDHR [Supervisor]

On October 20, 2014, OEIG investigators interviewed [Supervisor], who supervises investigators [identifying information redacted]. [Supervisor] said that investigators were not required to work additional hours outside their normal hours in order to receive extra pay under the incentive pay programs. According to [Supervisor], under the programs, investigators were “getting extra money for doing their job.”

I. Interviews of IDHR [Manager 1]

OEIG investigators interviewed [Manager 1] on July 18, 2014 and April 7, 2015. [Identifying information redacted.]

[Manager 1] said that IDHR initiated the incentive pay programs to address a backlog of discrimination cases, better service the public, and increase the number of payments IDHR received from the EEOC under the worksharing agreement. [Manager 1] noted that IDHR had work standards that required investigators to complete six or seven cases per month, and explained that “because of the position expectations, I don’t have authority to require anybody to work eight cases for example.” Accordingly, [Manager 1] said, the point was to “get more production out of the investigators than they otherwise might.”

[Manager 1] confirmed that investigators could receive extra pay under the programs without working more than their normal work hours, and said that they were not required to show on their time sheets that they worked on the extra cases outside their normal work hours in order to receive the extra pay. However, [Manager 1] said that in general, if an investigator started work early or stayed late, he or she should record it.

J. Interviews of Former and Current CMS Personnel

OEIG investigators interviewed former and current CMS personnel regarding IDHR’s authority to pay investigators additional money for work performed during their normal work

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20 [Investigator 2] explained that previously, the Springfield office held monthly contests to determine which investigator had the highest production, with the winner receiving an award. [Investigator 2] said these contests were discontinued in the spring of 2015.

21 IDHR case completion records indicate that [Investigator 2] completed 11 cases (or 4 cases above her work standard) in October 2012, the first month of an incentive pay program, after completing only 5 cases (or 2 cases below her work standard) in September 2012.
hours, and the requirement that agencies obtain CMS approval for incentive pay programs. OEIG investigators also sought information on what limitations existed, if any, on IDHR management’s ability to increase workload standards for investigators.

1. Interview of Former CMS [Attorney 1]

On May 14, 2015, the OEIG interviewed [Attorney 1], [identifying information redacted].

[Attorney 1] recalled attending a meeting in 2013 with IDHR [Manager 1], IDHR Deputy Director Bobbie Wanzo, and IDHR [Attorney 2], to discuss a proposed IDHR employee incentive pay plan. [Attorney 1] said that during the meeting, he was told that IDHR had been paying its employees extra money for work they performed during their normal work hours. [Attorney 1] said he told the others at the meeting that paying overtime for work employees were performing during their regular work hours “clearly violated the collective bargaining agreement,” which allowed for overtime pay only for hours worked outside normal working hours. [Attorney 1] said he did not have an opinion as to whether such payments would be problematic if they were called something other than “overtime.”

When asked about IDHR’s workload standards for investigators, [Attorney 1] said the collective bargaining agreement between CMS and AFSCME gives management a unilateral right to implement reasonable workload standards. [Attorney 1] said that in order to change a workload standard, management is only required to meet with the union and discuss any potential impacts of the change. According to [Attorney 1], nothing would prevent IDHR from increasing its workload standard for investigators, as long as the new standard was reasonable and IDHR discussed the change with the union.

2. Interview of CMS [Attorney 3]

On August 25, 2015, the OEIG interviewed [Attorney 3], [identifying information redacted]. In that position, [Attorney 3] advises CMS [identifying information redacted].

[Attorney 3] said that it could have been legally appropriate to pay investigators incentive pay, even if the investigators performed the extra work during their normal work hours, because the work was in excess of their workload standards. However, [Attorney 3] stated that IDHR would have needed to submit any incentive pay plan to CMS for review. [Attorney 3] also said that CMS would need to approve any agency workload agreement with the union.

3. Interview of CMS [Manager 2]

On December 17, 2015, investigators interviewed [Manager 2], [identifying information redacted]. In that position, [Manager 2’s] duties include [identifying information redacted].

[Manager 2] said he reviews approximately three to four agency requests for approval of incentive pay plans each year, and that all such requests CMS has received in the last five years

have been from the Department of the Lottery. [Manager 2] explained that even though CMS approved the Lottery Department’s initial request for approval of an incentive pay program, CMS has required it to continue submitting requests for approval of all subsequent programs, even though they were similar to the initial program.

[Manager 2] said that IDHR has not submitted any request to CMS for approval of an incentive pay plan. When shown memoranda describing the extra pay programs IDHR implemented between 2012 and 2014, [Manager 2] stated that the programs were incentive pay programs that required CMS approval. [Manager 2] stated that if IDHR had submitted the memoranda to him, he would have needed additional information in order to determine whether to approve the programs, including information about how IDHR planned to oversee the programs. When asked whether he would have been concerned about the potential for investigators “holding” cases, [Manager 2] said that he would have been, and that he would have wanted to discuss the issue with the agency.

K. Interview of IDHR Deputy Director Bobbie Wanzo

On October 7, 2015, OEIG investigators interviewed Bobbie Wanzo, who has been IDHR’s Deputy Director since 2003.23 In that position, Ms. Wanzo oversees several IDHR divisions, including the Charge Processing Division.

Ms. Wanzo said she participated in discussions regarding establishing work standards for IDHR investigators, and recalled that some investigators felt overwhelmed by their workloads at the time. She acknowledged that she signed the 2006 agreement with the union that set standards of seven cases per month for Investigator I and II positions, and six cases per month for Investigator III positions. She did not recall how those particular numbers were chosen, however.

Ms. Wanzo said the goal of the incentive pay programs was to address IDHR’s backlog of unassigned complaints, for the primary purpose of providing better service to discrimination complainants. She said an additional goal was to meet production expectations set under the EEOC worksharing agreement, and explained that if IDHR failed to meet those expectations in a given year, the EEOC could reduce the number of cases for which IDHR could receive payment in the following year.

Ms. Wanzo said that her involvement in initiating Programs 1 and 2, as with prior programs, began when the Charge Processing Division Manager advised her that there was a need to address a backlog of unassigned discrimination complaints. According to Ms. Wanzo, she consulted IDHR’s Fiscal Division to confirm that sufficient funds were available for the programs, and then she approved them.

Ms. Wanzo confirmed that investigators received extra pay under the incentive pay programs based on the extra cases they completed, rather than based on extra hours worked. She said investigators were allowed to complete the extra cases under the programs during their

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23 Ms. Wanzo began working for IDHR in approximately 1984, in an information technology position, and later became IDHR’s Manager of Operations.
normal work hours, but said she did not know whether investigators did the work during their normal work hours or outside normal work hours.

Ms. Wanzo said that in 2013, after rumors surfaced that an investigator was holding cases in anticipation of another incentive pay program, she held numerous meetings with IDHR’s Chief Legal Counsel, Chief Fiscal Officer, Charge Processing Division Manager, and Fair Housing Manager, to discuss how to change the way the next incentive pay program was structured. According to Ms. Wanzo, at her request then-CMS [Attorney 1] also attended some of the meetings, and discussed changing the name of the program to something other than “overtime.” Ms. Wanzo said Program 3 was the result of these meetings.

Ms. Wanzo said she was not aware of the administrative rule requiring the CMS Director to approve the wage rate and manner of paying incentives.\textsuperscript{24} Ms. Wanzo acknowledged that she did not obtain CMS approval for any of the incentive pay programs that ran during her tenure as Deputy Director, and said she did not know if her predecessors did so for earlier incentive pay programs.\textsuperscript{25} Ms. Wanzo noted that Program 3 was only a pilot program that was never made permanent, and that IDHR had been paying investigators under prior programs for a long time.

Ms. Wanzo said Program 3 ended in July 2014 and was not continued because problems with calculating investigator eligibility made it “more trouble than it’s worth.” Ms. Wanzo said there have been no discussions about reinstating an incentive pay program since Program 3 ended. Currently, Ms. Wanzo said, investigators can only earn overtime with advance approval for work completed on particular cases, and that work must be done outside their normal work hours.

Ms. Wanzo acknowledged that IDHR management has the right to change work standards as long as the union is notified, but said there have been no discussions about increasing investigators’ work standards. Ms. Wanzo said she believed that most investigators “seem to be just trying to keep up,” and that any effort to increase investigator work standards would receive pushback from the union. Ms. Wanzo also noted that many investigators did not participate in Program 3 because they did not meet the eligibility requirements, and said she believed it would take a toll on some investigators if their work standard was increased. When asked if it would be an indication that the investigator work standards are too low, if investigator time records for the 2012-2014 incentive pay program periods showed that most of the investigators who completed extra cases were working their normal work hours, Ms. Wanzo said: “I think that would be a consideration, it would be something to look at.”

IV. ANALYSIS

The OEIG’s investigation revealed that between 2012 and 2014, IDHR implemented three programs under which it paid IDHR investigators additional money above their salaries for completing cases in excess of their work standards, even if the investigators did the work during their normal work hours. In addition to violating rules governing incentive pay, and in some

\textsuperscript{24} See Ill. Admin. Code tit. 80 § 310.100(d)(3).

\textsuperscript{25} As noted above, IDHR’s incentive pay programs date back to at least 1993.
cases being susceptible to manipulation, it appears that these programs paid State employees extra money just to do their jobs.

CMS rules state that an agency may provide incentive pay for work performed in excess of the normal work standard, at a wage rate and in a manner approved by CMS’s Director.\(^{26}\) Although IDHR provided incentive pay to IDHR investigators through three programs between 2012 and 2014, IDHR Deputy Director Bobbie Wanzo admitted that she approved the programs without first obtaining the approval of the Director of CMS. Accordingly, the allegation that Ms. Wanzo violated CMS rules by instituting these programs without first obtaining the approval of CMS’s Director is **FOUNDED.**\(^{27}\)

IDHR’s failure to obtain CMS approval for the incentive pay programs meant that CMS did not have the opportunity to identify potential problems before the programs were implemented. For example, the investigation revealed that because IDHR did not require investigators to have met their work standards prior to Programs 1 and 2, it was possible for them to delay submitting cases they completed or should have completed during non-program periods, and submit them during program periods for extra pay. The CMS [Manager 2] charged with reviewing and approving agency proposals for incentive pay plans told investigators that if IDHR had submitted an incentive pay program proposal for CMS approval, he would have discussed this “holding” issue with the agency.

More troubling, however, IDHR’s incentive pay programs paid IDHR investigators extra simply to work harder during their normal work hours. Under the three programs examined, it is undisputed that IDHR investigators could collect extra pay for work done during their normal work hours. Moreover, it appears that they did so. The OEIG’s examination of IDHR time records showed that most of the investigators who participated in the programs consistently recorded their normal 37.5 hours of work on State business each week on their time sheets during the program periods. Although two investigators interviewed in this investigation stated that they worked extra hours during the program periods that they did not record on their time sheets, the documentary evidence supports a conclusion that investigators who completed extra cases above their work standards did so without working more than their normal hours.

In light of the documentary evidence that numerous IDHR investigators completed work in excess of their work standards during their normal work hours, it appears that those standards may be unreasonably low. The collective bargaining agreement gives IDHR management the unilateral right to establish reasonable work standards, and the process for changing work standards is neither difficult nor onerous. If IDHR determines that it would be reasonable to require investigators to meet higher work standards than are currently in place, it would merely need to discuss any potential impacts of the change with the union.

**V. FINDINGS/RECOMMENDATIONS**

\(^{26}\) Ill. Admin. Code tit. 80 § 310.100(d)(3).

\(^{27}\) The OEIG concludes that an allegation is “founded” 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. Although it appears that IDHR also improperly characterized the incentive pay under Programs 1 and 2 as “overtime,” the OEIG makes no finding as to that matter.
As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDING:**

- **FOUNDED** – IDHR Deputy Director Bobbie Wanzo approved the payment of incentive pay to IDHR Charge Processing Division investigators under three programs between 2012 and 2014 without first obtaining the approval of the Director of Central Management Services, in violation of Ill. Admin. Code tit. 80 § 310.100(d)(3).

The OEIG recommends that IDHR:

- take whatever action it deems appropriate relating to Ms. Wanzo;

- not reinstitute incentive pay programs without first obtaining the approval of the Director of Central Management Services;

- review current investigator productivity levels and consider whether to increase investigator work standards commensurate with the workloads investigators are reasonably able to maintain; and

- take steps to ensure that employees are accurately recording their time on timekeeping forms.

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

Date:  February 1, 2016

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington Street, Ste. 3400
Chicago, IL 60602

By:  **Angela Luning**
Assistant Inspector General

**Francis Foley # 156**
Investigator
Case Number: 14-00592

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

☒ We will implement some or all of the OEIG recommendations but will require additional time to do so. We will report to OEIG within 45 days from the original return date.

☐ We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

__________________________  
Signature

__________________________  
Chief Legal Counsel
Print Agency and Job Title

__________________________  
Ngozi C. Okorafor
Print Name

02/08/16  
Date

IDHR requires an additional forty-five days from the original return date to report upon the status of the implementation of the OEIG recommendations. IDHR will submit its response and status report on or before April 10, 2016.
CONFIDENTIAL

April 6, 2016

Margaret Hickey
Acting Executive Inspector General

Francis Foley
Investigator

Fallon Opperman
Deputy Inspector General & Chief

Angela Luning
Assistant Inspector General

Office of the Executive Inspector General
69 West Washington Street
Suite 3400
Chicago, Illinois 60601

Re: OEIG Case No. 14-00592 – Final Summary Report

Dear Acting Executive Inspector General Hickey, Deputy Inspector General Opperman, Investigator Foley, and Assistant inspector General Luning:

On February 2, 2016, the Office of the Executive Inspector General ("OEIG") provided a copy of the Final Summary Report (the "Report") for OEIG Case No. 14-00592 to the Illinois Department of Human Rights ("IDHR" or the "Department"). The Final Summary Report makes the following finding:

As a result of its investigation, the Office of Executive Inspector General ("OEIG") concludes that there is REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDING:

► FOUNDED – IDHR Deputy Director Bobbie Wanzo approved the payment of incentive pay to IDHR Charge Processing Division investigators under three programs between 2012 and 2014 without first obtaining the approval of the Director of Central Management Services, in violation of Ill. Admin. Code tit. 80 §310.100(d)(3).

The OEIG recommends that IDHR:

• take whatever action it deems appropriate relating to Ms. Wanzo;
While IDHR has already implemented this OEIG recommendation, Department staff believes that the finding against Deputy Director Wanzo should be levied against the agency and not Deputy Director Wanzo because:

- The OEIG’s Final Summary Report finds that IDHR implemented similar programs “[s]ince at least 1993” [Final Report, page 2; page 11, footnote 25], 10 years before 2003, when Deputy Director Wanzo was appointed to her current position [Final Report, page 10].

- There was no evidence that the Department of Central Management Services (“CMS”) ever trained or notified Department staff, including Deputy Director Wanzo, on the requirement of Section 310.100(d)(3).

- As the Final Summary Report states, in 2013, Deputy Director Wanzo contacted CMS to review and discuss the programs. CMS personnel did not notify Deputy Director Wanzo of the rule, notify Deputy Director Wanzo to contact any other CMS staff persons to review the programs, or notify Deputy Director Wanzo that review with the CMS staff person whom she spoke to was insufficient.

- There is no allegation, evidence, or finding that Deputy Director Wanzo personally benefitted or profited from the programs, or that the Programs themselves were improper.

- Deputy Director Wanzo did not intentionally violate the rule. Instead, her actions in contacting CMS show that, had she been aware of them, Deputy Director Wanzo would have complied with Section 310.100(d)(3) and any provisions covering the programs.

- **not reinstitute incentive pay programs without first obtaining the approval of the Director of Central Management Services;**

_IDHR has already implemented this OEIG recommendation. The Department intended and tested the seven-month pilot program in question, and discontinued the pilot program, because it did not achieve anticipated agency goals. Thus, the Department opted not to renew or extend the pilot program.

- **review current investigation productivity levels and consider whether to increase investigator work standards commensurate with the workloads investigators are reasonably able to maintain;**

_IDHR has already implemented this OEIG recommendation. Notwithstanding the terms and conditions of the AFSCME Collective Bargaining Agreement and Supplemental Agreement, the Department routinely evaluates productivity levels of Charge
Processing Division staff and makes adjustments within its authority. Going-forward, the Department will regularly consult with CMS where appropriate.

- take steps to ensure that employees are accurately recording their time on timekeeping forms;

IDHR has already implemented this OEIG recommendation. The Department anticipates hosting a Timekeeping Refresher Training in the next several months. The purpose of the Timekeeping Refresher Training will be to remind staff of the proper way to document time. The Department is also closely monitoring and evaluating attendance. Further, the Department's Manager of Operations will be issuing written guidance on staff's appropriate after-hours and weekend access to the Department’s offices in April 2016.

In sum, to date, the Department has implemented each of the OEIG's recommendations and adopted additional best practices in accordance with all applicable statutes, rules, and regulations.

The Department welcomes any further questions that the OEIG might have.

Very truly yours,

Ngozi C. Okorafor
Chief Legal Counsel/Ethics Officer

Enclosures

cc: Director Rocco J. Claps
IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: Bobbie A. Wanzo ) #14-00592

RESPONDENT’S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

✓ Below is my public response. Please make this response public if the summary report is also made public; or

Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

[Signature]
Respondent’s Signature

[Date]
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Please see Attached.
July 22, 2016

Chad D. Fornoff  
Executive Director  
Executive Ethics Commission  
401 S. Spring St., Room 513  
William Stratton Building  
Springfield, IL 62706

Re: Release of redacted OEIG report, Case No. 14-00592

Dear Mr. Fornoff:

Please accept this letter in response to your correspondence dated June 28, 2016, stating that the Executive Ethics Commission ("EEC") is considering publishing the final report of and responses to the Governor's Office of Executive Inspector General ("OEIG") in Case No. 14-00592 ("OEIG final report").

As an initial matter, I would like to correct an error in footnote 23, page 11, of the OEIG final report. My first position with the Illinois Department of Human Rights ("IDHR") was as Methods and Procedures Advisor. I oversaw IDHR's information technology operations as Manager of Operations in a position that I later occupied.

I respectfully request that the EEC not publish the OEIG final report and responses. First, although the OEIG final report finds misconduct for violating Ill. Admin. Code tit. 80 §310.100(d)(3), I did not intentionally violate or purposely circumvent the regulation, nor did the OEIG find that I intentionally violated or purposely circumvented the regulation. Rather, as the OEIG final report shows, IDHR did not comply with the regulation because neither I, nor any other IDHR executive staff member involved in this or any previous programs, was aware of the regulation. As a precautionary measure, several IDHR executive staff members, including the Director, Chief Legal Counsel, Chief Fiscal Officer, Charge Processing Manager, Fair Housing Manager, and me, had been assembled to study, evaluate, and implement this pilot program and related programs.

Second, on behalf of IDHR, I contacted a labor attorney at Central Management Services ("CMS") to discuss the pilot program to ensure that there were no obvious or unforeseen problems or issues with implementing the pilot program. The CMS Labor
attorney reviewed the pilot program and did not express any concerns regarding implementing the pilot program. At no time did the CMS Labor attorney inform me or any IDHR executive staff member of the administrative rule or the requirement to obtain approval from the Director of CMS prior to implementing the pilot program or that the pilot program should be submitted to a CMS staff person other than the Director of CMS for review and approval (See OEIG final report, pg. 10-11). IDHR would have solicited necessary approvals if a requirement to do so was known. While IDHR has discontinued the pilot program and does not intend to implement a similar program in the future, now that I and IDHR’s executive staff members are aware of the regulation, IDHR will certainly comply with the regulation and obtain the necessary approvals should IDHR decide to implement a similar program in the future.

Third, I did not personally benefit from this pilot program or related programs nor was I enriched by unwittingly violating the regulation, which is further underscored by the fact that the OEIG did not make any such findings.

Finally, the decision to implement this pilot program or related programs was an agency decision and not made by me independently; rather several executive staff members and I met on several occasions to assess and roll out the pilot program. For these reasons, the OEIG final report should not be published.

In the event that the EEC publishes the OEIG’s final report, the EEC should redact those portions of the OEIG final report which discuss the incentive programs because the OEIG final report did not make any formal findings that IDHR’s programs were unlawful or improper. A CMS staff person interviewed by the OEIG stated that “it could have been legally appropriate to pay investigators incentive pay, even if the investigators performed the extra work during their normal work hours” because of the workload agreement with the union (See OEIG final report, pg. 10). The only information relevant to the OEIG finding is that IDHR did not obtain the required prior approval from the Director of CMS. 80 Ill. Admin. Code Ch. I, §310.100(d)(3).

Therefore, I request that the EEC redact the following from the OEIG final report:

1. evidence regarding the operation of the incentive programs - Sections D through H (OEIG final report, pg. 4-9);
2. the OEIG’s commentary regarding the appropriateness of the incentive programs - in particular:
   a. the last sentence of the first paragraph of the Analysis which states “In addition to violating rules governing incentive pay, and in some cases being susceptible to manipulation, it appears that these programs paid State employees extra money just to do their jobs” (OEIG final report, pg. 12); and
   b. the final two paragraphs of the Analysis (OEIG final report, pg. 13).
These portions of the OEIG final report should be redacted because the OEIG’s discussion of evidence and commentary implies that the incentive programs were not lawful and inappropriate even though the OEIG made no official finding to that effect. To the contrary, as pointed out above, the evidence obtained by the OIEG suggested the incentive programs could have been legally appropriate.

Again, there was no intent to bypass the provisions of the Pay Plan or any other regulation. Neither I nor IDHR staff were aware of the requirements of §310.100(d)(3); had we been aware of those or any other requirements, we would have sought and obtained necessary approvals before proceeding. Should we undertake such programs in the future, we certainly commit to do so.

Thank you for your consideration of this response.

Sincerely,

[Signature]

Bobbie A. Wanzo
Deputy Director