

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL L. SHAKMAN and	)	
PAUL M. LURIE, <i>et al.</i> ,	)	Case No. 69 C 2145
Plaintiffs,	)	
	)	
v.	)	
	)	
DEMOCRATIC ORGANIZATION OF	)	Sidney I. Schenkier
COOK COUNTY, <i>et al.</i> ,	)	United States Magistrate Judge
Defendants.	)	

**SIXTH REPORT OF THE SPECIAL MASTER**

On November 18, 2014, the Court directed the Special Master, along with her staff and appointed legal counsel, to: (i) investigate the scope and reason for any violation of the 1972 Decree regarding the Illinois Department of Transportation (“IDOT”); (ii) recommend measures that may be necessary or appropriate to prevent any recurrence; (iii) assess the implementation of those efforts to ensure that they are effective; (iv) address whether positions in IDOT labeled as *Rutan*-exempt were properly exempt under applicable legal principles; and, (v) make recommendations for how to remedy any violations of the 1972 Decree. *See* Order Appointing a Special Master for IDOT, Dkt. 4202 ¶ 3.

Since filing the Fourth Report of the Special Master (“Fourth Report”) on July 20, 2016, the Special Master and her staff completed the investigation into the Governor’s Office’s involvement in the misuse of the Staff Assistant position at IDOT, as detailed in the Fifth Report of the Special Master (“Fifth Report”), which was filed on April 24, 2017. Additionally, the Special Master and her staff continued its ongoing investigation and monitoring of IDOT’s employment practices to identify potential *Rutan* violations and practices vulnerable to manipulation. The Special Master’s office also continued to monitor implementation of previous recommendations and make additional recommendations on an ongoing basis. This Sixth Report of the Special Master (“Sixth Report”) summarizes the progress made and some of the work still to be completed.

**I. ADDITIONAL STEPS TAKEN BY IDOT AND PREVIOUSLY IMPLEMENTED RECOMMENDATIONS**

Early in the Special Master's appointment, the Special Master recommended that IDOT "implement comprehensive reforms that address serious systemic personnel problems" to prevent future manipulation. Initial Report at 1 (emphasis original); *see also*, Second Report at 10 ("IDOT needs to adopt comprehensive policies and procedures to ensure a transparent and fair employment system, a compliance/monitoring system that can detect and then promptly remedy violations, and a process for public reporting about future *Rutan* violations."). In the Fourth Report, the Special Master outlined specific previous recommendations that IDOT (or the Governor's Office) had not yet implemented. Fourth Report at 18-20. Since then, IDOT took additional steps towards implementing those recommendations and its own reforms to comply with the 1972 Shakman Decree, as discussed below.

**A. Revised Winter 2016-2017 Seasonal Highway Maintainer Hiring Process**

In prior reports, the Special Master emphasized the need to ensure "consistent hiring processes are employed for seasonal positions." Fourth Report at 19. The Special Master reported that IDOT failed to provide advance notice of winter seasonal highway maintainer ("Snowbird") interviews and hires during the 2015-2016 winter season and hired hundreds of individuals without monitoring by the Special Master's office. *See* Third Report at 4. The Special Master's staff reviewed documents relating to the 2015-2016 Snowbird processes and discussed with IDOT ways to improve its seasonal hiring practices. Many problems were the result of the decentralized way IDOT hired Snowbirds at the district level.

In preparation for the 2016-2017 winter season and in response to specific concerns raised by the Special Master's office, IDOT revised its Snowbird hiring process for the winter of 2016-2017. IDOT formalized the revised procedures in writing ("Standard Hiring Process") and provided them to the Special Master's office in September 2016. After clarifying some of the written procedures with the Special Master's input, IDOT distributed the Standard Hiring Process for monthly and hourly Snowbirds state-wide to each district within the department. The Standard Hiring Process includes centralized review and approval by IDOT's Bureau of Personnel Management ("BPM").

The 2016-2017 Standard Hiring Process for Snowbird hiring detailed specific steps to be followed at every stage of hiring. The Special Master and her staff closely monitored the Snowbird interviews and hiring process throughout the 2016-2017 winter season. With a few exceptions, the new uniform standards were successfully implemented. As can be expected, when new procedures are first introduced, there were instances in which the districts did not follow IDOT's Standard Hiring Process precisely. In some districts, numerous mathematical errors and other discrepancies occurred in completing the required personnel paperwork. BPM worked collaboratively with the Special Master's staff to communicate the errors to the districts. The districts then resubmitted corrected paperwork for the Special Master's office to review and approve.

Two substantial violations were identified and addressed during the 2016-2017 Snowbird hiring process. First, one district office posted second and third job postings for hourly Snowbirds and hired individuals into the positions without approval from BPM or notice to the Special Master. IDOT conducted an internal investigation into the circumstances of that incident and concluded that it was an unintentional oversight. Second, one IDOT interviewer added information to incomplete applications, which caused certain candidates who would have been ineligible to become eligible for consideration. IDOT employees are prohibited from altering applications. Once this violation was discovered, IDOT investigated the matter and issued discipline to the interviewer.

**B. Revised Summer 2017 Temporary Technician Trainee and Engineering Technician Hiring Process**

As discussed in the Fourth Report, the Special Master's office noted numerous problems related to IDOT's 2016 summer hiring process. As an initial matter, IDOT failed to notify the Special Master's office of approximately thirty-five interviews for these *Rutan*-covered positions. *See* Fourth Report at 4. After IDOT conducted interviews for the summer 2016 Technician Trainee ("TT") and Engineering Technician ("ET") programs, it intended to hire 131 TT employees and 161 ET employees. *Id.* In the Fourth Report and in discussions with IDOT, the Special Master expressed concerns about the intended hires, including but not limited to: (1) whether the large number of candidates IDOT intended to hire was based on operational need; (2) inconsistent and inaccurate job descriptions for TT and ET positions; and (3) the

disproportionate number of candidates with IDOT relatives or previous IDOT work experience. *Id.* at 4-11.

In response to the issues the Special Master identified, IDOT suspended the summer 2016 TT program. IDOT proceeded with the summer 2016 ET program after the Special Master and her staff reviewed and approved the proposed hires. IDOT pledged to revise the hiring process for the TT and ET summer programs for the summer of 2017. *See* Fourth Report at 12.

Since then, IDOT revised its hiring practices and procedures with respect to summer TT and ET employees. IDOT improved the processes considerably, including: (1) determining the number of proposed hires based on data and justifications from the districts; (2) updating and/or creating accurate position descriptions; and (3) expanding advertising of the programs to obtain a wider and more diverse pool of applicants. Notably, the number of hires requested by the districts for TT and ET positions decreased this year based on data and justification of hiring needs (131 TTs proposed in 2016 versus 65 TTs proposed in 2017; 161 ETs proposed in 2016 versus 156 ETs proposed in 2017). Moreover, the number of applicants increased and the applicants were less likely to have IDOT connections.

In addition, IDOT eliminated TT phone interviews. Now, TT candidates are selected based on their applications. ET candidates are also selected based on their applications, as they were during the 2016 process. Therefore, the application processes for TT and ET hiring are now uniform except for the minimum requirements for the positions. IDOT also clarified ambiguities in the job postings and application instructions with respect to official college transcripts, which was an issue the Special Master identified in the Fourth Report. *See* Fourth Report at 10.

Based on review of documents relating to the TT and ET hiring process this year, IDOT appears to be consistently applying its newly clarified procedures. The Special Master's office identified a few minor discrepancies in the paperwork, which IDOT promptly addressed. The Special Master and IDOT will continue to work collaboratively to address any issues that may arise regarding the TT and ET programs going forward.

**C. Bureau of Personnel Management and District Management Employees Met with the Special Master's Office and the Division of Hiring & Employment Monitoring**

In the Fourth Report and previous reports, the Special Master recommended that IDOT collaborate with the Special Master “to prepare updated *Rutan* guidelines to be disseminated to senior IDOT personnel.” Fourth Report at 19; *see also*, Initial Report at 28, Second Report at 11. A meeting with IDOT management, the Special Master’s office, and the Office of the Executive Inspector General’s Division of Hiring & Employment Monitoring (“HEM”) was held on December 6, 2016 at IDOT’s Central Office to discuss *Rutan* guidelines and common questions raised concerning *Rutan* compliance. The meeting included an informational panel, small group discussions, presentations of small group discussion topics, and a questions and answers session. IDOT, the Special Master’s office, and HEM held a follow up conference call later in December to discuss specific issues that were raised at the meeting.

The Special Master’s office provided IDOT with written suggestions to address some of the ideas, issues, or concerns about IDOT’s *Rutan*-covered hiring processes that were raised in the meeting and subsequent discussion. IDOT implemented some of the suggestions, including clarifying its conflicts of interest policies, revising the wording on applicant screening tools, and creating a mechanism to account for interviewer observations. IDOT did not implement other suggestions, such as eliminating some interviews in favor of more objective measures (*e.g.*, tests or lottery) for appropriate positions.

On April 18, 2017, as follow up to the earlier meeting, BPM, the Special Master’s office, and HEM participated in a conference call with IDOT interviewers and administrative personnel staff in IDOT’s district offices to discuss and clarify certain areas of the *Rutan*-covered hiring process. Specifically, BPM explained: (1) the revised Disclosure of Interviewer Relationships with Applicants and Certification forms (*i.e.*, conflicts of interest); (2) the revised education and training language in screening tools; (3) appropriate follow-up questions during interviews; (4) use of all relevant information from interviews to prepare Candidate Evaluation Forms; (5) applicants’ ability to review resumes/applications during interviews; (6) interviewers’ inability to accept additional material from applicants at the interviews; and (7) the requirement to complete Interview Observations worksheets for each interview packet.

IDOT informed the Special Master that it intends to conduct additional in-person *Rutan* training for interviewers. The date and details regarding the additional training have not yet been shared. The Special Master renews her request for IDOT to collaborate with the Special Master on the creation and rollout of the training program.

**D. Agreement to Disclose Complaints**

Regarding IDOT related complaints, the OEIG periodically sends IDOT Final Reports of its completed investigations or administrative closure letters for complaints closed without issuance of a Final Report. Sometimes the OEIG sends IDOT referral letters, which refer complaints to IDOT to investigate. The referral letters are processed by IDOT's Bureau of Investigation and Compliance ("BIC"), which is also responsible for investigating the referred complaints. The complaint information IDOT receives from the OEIG is confidential and includes complaints regarding a variety of topics. Under the Agreed Protective Orders in this litigation, IDOT is permitted to provide confidential documents to the Special Master. *See* Agreed Protective Orders, Dkt. 4225, 4855.

The Special Master and IDOT discussed the scope of complaints relevant to the Special Master's work. As a result of those discussions, in March 2017, IDOT agreed to forward information concerning complaints of political influence on hiring or employment actions at IDOT, including "all future OEIG Final Reports, investigation referral letters, administrative closure letters or any other complaints or reports IDOT receive[s] from OEIG, as well as written complaints received or documented by BIC, IDOT's Office of Chief Counsel ("OCC") or Bureau of Personnel Management ("BPM") from any other source, which contain any complaint of misconduct by IDOT or an IDOT employee," typically within no more than seven days.<sup>1</sup> ("March 23, 2017 Agreement"). IDOT has since started to provide the agreed upon information to the Special Master, which the Special Master and her staff review on an ongoing basis as it is received. The Special Master requested additional information concerning some of the complaints, and IDOT agreed to share that information.

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<sup>1</sup> IDOT may request additional time for documents that exceed 200 pages, not to exceed fourteen days.

**E. Completed Review of All *Rutan*-Exempt Positions at IDOT**

The Special Master has recommended that IDOT eliminate the over-designation of *Rutan*-exempt positions by reviewing all of its currently designated *Rutan*-exempt positions to establish a finite list of positions it believes to be properly *Rutan*-exempt. *See* Initial Report at 27; Second Report at 11; Third Report at 2. Since the Fourth Report, IDOT completed its review of all *Rutan*-exempt positions at IDOT, which included verifying that the position descriptions for those positions are accurate or revising the position descriptions. IDOT then proposed a list of positions it believed to be properly *Rutan*-exempt to the Special Master. The Special Master and IDOT discussed certain positions and IDOT provided additional information to the Special Master upon request. The Special Master and IDOT have not yet agreed upon a final list, as certain issues arose during the *Rutan*-exempt designation process. *See* Section II.B. Although no final list has been agreed upon, through this process, IDOT reduced the number of positions it designated as *Rutan*-exempt to approximately 130, down from 350 positions as of June 2015.<sup>2</sup> The Special Master and IDOT continue to discuss the designations and work towards developing a finite list.

**F. Established Procedures for Internal Job Postings**

Over the past year, IDOT and the Special Master engaged in ongoing discussions regarding developing a mechanism for posting certain IDOT jobs internally. IDOT emphasized the desire to provide more promotional opportunities for current IDOT employees. In January 2017, after consulting with the Special Master, IDOT adopted an internal posting procedure for certain position classifications.<sup>3</sup> Positions outside the specified classifications may be posted internally, after submission and approval by BPM, on a case by case basis.

The Special Master requested and IDOT agreed to indicate on its weekly job posting reports whether postings are internal or external. Additionally, the Special Master requested that

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<sup>2</sup> Positions that are currently designated *Rutan*-exempt but will no longer be *Rutan*-exempt have not yet been converted to *Rutan*-covered. IDOT and the Special Master will work together to develop a conversion process.

<sup>3</sup> The following position classifications may be posted internally as a matter of course: ET IV, ET V, CE IV, CE V, CE VI, CE VII, TM IV, TM V, TM VI, and TM VII. Positions inside the specific classifications may be posted externally as approved on a case by case basis.

IDOT provide notice when an internal posting has three or less applicants and/or three or less applicants schedule an interview for a position. Interviewing a sufficient number of candidates is important to safeguard the competitive process.

In recent months, IDOT posted several positions internally. In some instances, those postings received three or less applicants in response. In other instances, the postings initially received more than three applicants, but then less than three applicants scheduled interviews. In such cases, the Special Master asked IDOT to repost the positions externally, and IDOT complied.

### **G. Previously Implemented Recommendations**

IDOT previously implemented some of the Special Master's other recommendations. The Special Master and her staff continue to monitor those recommendations on an ongoing basis. IDOT successfully continued to do the following, with a few exceptions: (1) provide weekly reports of *Rutan*-covered job postings and advance notice of job interviews, which has allowed the Special Master's staff to attend in-person interview sequences or request additional information regarding certain positions;<sup>4</sup> and (2) provide at least 7 days' notice and a copy of the job description prior to filling any *Rutan*-exempt positions. IDOT's Chief Counsel, or his designee, also provides personal assurance that the job description is accurate and that the duties described therein are the duties to be performed by the selected candidate.<sup>5</sup>

## **II. AREAS OF CONCERN AND CHALLENGES MOVING FORWARD**

### **A. Tracking of Temporary Assignments**

The Special Master's office remains concerned about IDOT's overuse of temporary assignments. As explained in the Initial Report, temporary assignments ("TAs") allow employees to "temporarily" perform the duties of different positions at a higher rate of pay without permanently changing their job titles or positions on paper. *See* Initial Report at 23. This office previously reported concerns about the use of temporary assignments, including data from

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<sup>4</sup> The instances in which IDOT did not follow through with this previously implemented recommendation are discussed herein in Section II.C. regarding IDOT's Co-op Program.

<sup>5</sup> Due to potential consequences of the new "technical" definition, as discussed below, the Special Master asked IDOT to delay hiring into *Rutan*-exempt positions at this time. *See* Section II.B.



recent years that shows the assignments are often essentially indefinite due to consecutive renewals. Such long-term temporary assignments give employees temporarily assigned to the positions an advantage in the *Rutan*-covered interview process if they apply to fill the positions permanently. *See* Fourth Report at 15. In its effort to limit the duration of temporary assignments, as stated in the Fourth Report:

IDOT informed the Special Master that it implemented a new TA renewal policy. In order to submit a renewal to Central Personnel, the requesting department must attach an IPR to the TA renewal request. Creating and submitting an IPR for approval is the first step in filling any position with a permanent full-time employee. IDOT believes that requiring departments to prepare the position for a permanent hire should decrease the number of long term TAs. The Special Master will continue to monitor IDOT's use of TAs.

Fourth Report at 15.

The Special Master's office explained that while IDOT's proposed policy was a step in the right direction, "they must also require the posting of the positions and subsequent interviews to significantly reduce the number of TAs." Fourth Report at 18. This office further recommended that IDOT develop a process to (1) identify the eligible candidate pool; (2) create a selection process; and (3) impose time limits for individuals temporarily assigned. Additionally, the Special Master's office has repeatedly recommended that IDOT limit the overall number of TAs used. *See* Fourth Report at 18. To date, IDOT has not implemented these recommendations.

Over the past year, IDOT provided the Special Master's office with bi-monthly reports regarding TAs. Upon analysis of the data, the Special Master's office asked IDOT questions about temporary assignments that did not appear to have approved IPRs; had approved IPRs but were not posted to fill or were later cancelled; or received large numbers of renewals without apparent justification. IDOT explained that many of the positions identified as concerns are "in the pipeline" for posting and interviewing to fill permanently. IDOT also explained that many of the extended renewals are for *Rutan*-exempt union covered positions, which IDOT has agreed not to permanently fill because of the conflict between job protection and *Rutan*-exempt status. While we understand IDOT's predicament in not being able to permanently fill these positions, extended use of the TA process is not a long-term solution to improperly classified positions. IDOT and the Special Master are in the process of discussing long-term solutions.

**B. New Definition of “Technical” and Impact on *Rutan*-Exempt Status**

Previous reports to the court discussed the over-designation of “technical” positions at IDOT. IDOT has not “[e]stablished a narrow definition of ‘technical’ or created clear standards for classifying positions as Personnel Code covered versus Technical (Non-Code) to address the overuse of Technical classification.” Fourth Report at 19; *see also* Initial Report at 1, 18, 19-20, 26, 28; Second Report at 11. As of the Second Report, filed August 20, 2015, IDOT stated that it was drafting a new definition of “technical” to be used to determine which jobs are properly classified as “technical” positions. *See* Second Report at 11. On May 18, 2017, IDOT submitted its proposed definition of “technical” to the Special Master’s office for input. The process of finalizing the definition is ongoing. The new definition of “technical” will cause certain positions currently classified as “technical” to be reclassified. The “technical” exemption from the Personnel Code will no longer apply to those positions. Once subject to the Personnel Code, the positions gain Personnel Code job protection.

As stated in Section I.E. of this report, IDOT worked collaboratively with the Special Master’s office to determine whether various IDOT positions meet the *Rutan*-exempt standard and to identify a comprehensive *Rutan*-exempt list of positions (“*Rutan*-Exempt List”). More recently, IDOT proposed to add a number of positions to the *Rutan*-Exempt List. The Special Master’s office and IDOT discussed the positions, and the Special Master expressed concerns about designating additional positions *Rutan*-exempt at this time. The positions at issue and some of those already on the proposed *Rutan*-Exempt List, may become subject to the Personnel Code once the new definition of “technical” goes into effect. Personnel Code job protection conflicts with the at-will nature of *Rutan*-exempt status.

As a result, the Special Master’s office requested that IDOT clarify which titles will become subject to Personnel Code protection because of the proposed new definition of “technical” before determining whether additional positions are properly *Rutan*-exempt under applicable standards. Once IDOT provides the requested clarification, the Special Master and IDOT will discuss potential ways to further address this issue.

### **C. Co-op Program**

In January 2017, IDOT provided the Special Master's office with general information about IDOT's Cooperative Education Program ("Co-op Program"). IDOT's guidelines for the Co-op Program describe the program as follows:

The Illinois Department of Transportation (department), in conjunction with certain colleges and universities, offers a Cooperative Education (Co-op) Program. It permits qualified students to supplement their academic work with on-the-job training, provides students with a source of income during the work phase of the program, and provides the Department with a labor pool for positions which it has difficulty in recruiting qualified applicants.

While the positions are *Rutan*-covered, they are not publicly posted. Instead, schools identify candidates and send them to IDOT to be interviewed. Eligible candidates must be students enrolled full-time in certain Civil Engineering, Engineering Technology, Information Technology, and law school programs. Participants may work full-time and/or part-time for a maximum of fifteen months and are eligible for vacation, personal business days, and sick days based upon their approved work schedule.

In January 2017, the Special Master's office recommended that IDOT review and revise the Co-op Program similar to the revisions to the summer ET and TT programs. The Special Master's office specifically requested additional information regarding position descriptions and the candidate pool, among other things.

In late March 2017, without first providing the requested information to the Special Master's office, IDOT initiated the application and hiring process for this year's Co-op Program. IDOT informed the Special Master's office that the application process was underway and some interviews were already conducted. In response, the Special Master's office requested and reviewed Co-op Program position descriptions, information regarding the applicant pool (including any outreach or promotional plans to attract applicants), IDOT's policies and procedural guidelines for the program, relevant qualifications and criteria for interviews, and candidate applications.

The Special Master's office identified issues, including but not limited to: (1) a small applicant pool; (2) position descriptions with different titles but very similar or identical duties;

(3) position descriptions with titles that do not align with the content of the descriptions; (4) position descriptions that appear to be drafts (due to handwritten information); and, (5) unclear requirements for positions. The Special Master requested that IDOT review all the Co-op Program position descriptions for completeness, accuracy, and consistency. Notably, the issues identified with these position descriptions closely resemble those identified last year with the ET and TT position descriptions. *See* Fourth Report at 5. The Special Master's request in January 2017 that IDOT review and revise the Co-op Program was intended to allow IDOT to proactively identify and address such issues.

Overall, the Special Master's office has reservations about the applicant pool size and integrity of the competitive process with respect to IDOT's Co-op Program. IDOT and the Special Master's office continue to jointly address the problems identified with the Co-op Program.

### **III. ONGOING MONITORING OF *RUTAN*-COVERED INTERVIEW SEQUENCES**

#### **A. Monitoring *Rutan*-Covered Interview Sequences**

The Special Master's office continues to monitor a subset of *Rutan*-covered interview sequences either in person or by document review. The Special Master's office provides IDOT with feedback regarding potential *Rutan* violations, if any, as well as inconsistency in processes and procedures. The Special Master's office also continues to work collaboratively and communicate with HEM regarding interview monitoring and other matters relevant to the work of each of our offices.

#### **B. Issues Related to a Limited Number of Specific Interview Sequences**

In the course of monitoring *Rutan*-covered interview sequences, either in person or by reviewing documentation after interviews were conducted, the Special Master and her staff identified problematic issues regarding a limited number of interview sequences. The Special Master's office addressed the concerns to IDOT. IDOT investigated the concerns internally and discussed findings and appropriate resolutions with the Special Master.

For example, one sequence involved a selected candidate who made false statements on her application, misrepresenting her level of relevant experience, which caused her to be selected over more qualified candidates. After the Special Master's office identified the issues, IDOT conducted an internal investigation. The candidate had already started working at IDOT. However, based on information provided by our office and IDOT's own findings, IDOT determined that termination was the appropriate course of action for the candidate's misconduct.

#### **IV. COLLABORATION WITH HEM**

As discussed above, the Special Master and her staff continue to work jointly with the HEM division of the OEIG on interview monitoring and other matters where the offices share jurisdiction. The Special Master's office and HEM communicate multiple times per week regarding the status of matters to avoid duplicate efforts. The Special Master's office regularly defers to HEM on matters of hiring and employment monitoring to ensure available resources are effectively utilized and also supports the monitoring efforts when necessary.

Additionally, on many other employment related matters, the offices discuss issues as they arise and decide which office will take the lead moving forward. For example, after the December 2016 meeting with HEM, IDOT, and the Special Master's office, HEM led the efforts to develop and reform the interviewer conflicts of interest process with IDOT staff, while the Special Master's office worked with IDOT to ensure accurate position descriptions that correlate to job postings and applicable interview materials.<sup>6</sup> The regular communication, exchange of information, and work sharing relationship between the offices has been invaluable to the Special Master and her staff.

#### **V. LAY-OFF OF STAFF ASSISTANTS**

As reported previously, IDOT entered into an agreement ("Stipulation") on September 14, 2015, to settle *Teamsters Local 916 v. Pat Quinn et al.*, No. 2014-CH-352, the case which challenged IDOT's proposed lay-off in September 2014 of IDOT Staff Assistants. *See* Third Report at 5. Pursuant to the Stipulation, IDOT posted and filled at least 60 *Rutan*-covered Teamsters positions for which Staff Assistants were eligible to apply. However, the Teamsters took issue with the process IDOT used to screen applicants for interviews. As a result, the parties agreed to amend the terms of the Stipulation to avoid continued litigation.

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<sup>6</sup>*See* Section I.C. for discussion of the December 2016 joint meeting.

Under the Amended Stipulation, IDOT agreed to: (1) post an additional ten positions; (2) allow Staff Assistants previously screened out of an interview the opportunity to interview on prospective sequences; and, (3) ensure that when a screening tool is applied, the five highest scoring Staff Assistants receive interviews. No finalized sequences were altered or reopened based on this accommodation. *See* Fourth Report at 16-17.

Since the Fourth Report, IDOT performed its obligations under the Amended Stipulation. IDOT laid off the remaining twenty-nine Staff Assistants effective September 15, 2016. IDOT is still obligated to take certain actions with respect to potential reemployment of former Staff Assistants with recall rights. The Special Master's office will continue to be notified and given the opportunity to monitor interview sequences where former Staff Assistants are candidates.

## **VI. RENEWED RECOMMENDATIONS**

As discussed herein, IDOT has taken steps toward implementing a number of the Special Master's recommendations. While IDOT continues to make progress, the following are previous recommendations that IDOT has not yet implemented:

- Resolve the issue of *Rutan*-exempt union covered positions, which inherently conflict with *Rutan* principles. *See* Initial Report at 2, 28-29; Fourth Report at 19. IDOT previously froze hiring into these positions at the request of the Special Master. However, that is merely a temporary solution. IDOT must also address the conflict between *Rutan*-exempt status and Personnel Code covered positions, which also enjoy job protection.
- Complete a comprehensive internal audit of all existing *Rutan*-covered position descriptions. *See* Fourth Report at 19. As discussed above, IDOT completed its review of *Rutan*-exempt position descriptions. However, it has not performed a comprehensive review of *Rutan*-covered position descriptions.
- Establish required (as opposed to merely desired) qualifications for positions, based on specific essential job duties, and apply those requirements to the hiring process. *See* Initial Report at 24; Second Report at 10; Fourth Report at 19. The Special Master continues to recommend that IDOT establish minimum requirements tailored to specific positions.

## VII. CONCLUSION

The Special Master commends the parties on the progress that has been made. IDOT has made significant strides toward establishing a comprehensive employment plan, which will facilitate achieving future compliance with the 1972 Decree. The Special Master and her staff look forward to continued cooperation and collaboration to accomplish the work ahead.

Dated: June 6, 2017

Respectfully submitted,

/s/ Noelle C. Brennan

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