

**STATE OF ILLINOIS
DEPARTMENT OF STATE POLICE**

Skokie Police/Fire Communication)	
Center - Lincolnwood)	Case No. 16-C-169
)	
Application for 9-1-1 Consolidation)	

RECOMMENDED DECISION

By Administrative Law Judge Donald W. Seasock:

STATEMENT OF THE CASE

On February 28, 2017, the Village of Skokie (“Skokie” or “Applicant”) filed an application for approval of a Consolidation Plan (“Consolidation Plan”) pursuant to Section 15.4a of the Emergency Telephone System Act (“ETSA” or “Act”). 50 ILCS 750/15.4a. Skokie is a qualified governmental entity as defined under the Act.

Under 50 ILCS 750/15.4a(a)(2), in any county with a population of at least 250,000 that has more than one Emergency Telephone System Board (“ETSB”), Joint Emergency Telephone System Board (“JETSB”), or qualified governmental entity, any 9-1-1 Authority serving a population of less than 25,000 shall be consolidated such that no 9-1-1 Authority in the county serves a population of less than 25,000. The Village of Lincolnwood, as a 9-1-1 authority with an ETSB (“Lincolnwood”), serves a population of approximately 12,646. As a result, Lincolnwood ETSB is required to consolidate.

The Consolidation Plan proposes that Skokie’s dispatch call center receive emergency calls from Lincolnwood and dispatch Lincolnwood emergency responders without creating a JETSB with Lincolnwood and with Lincolnwood currently maintaining its ETSB but closing its public safety answering point (“PSAP”).

The Department of State Police (“Department”) has objected to the form of the proposed consolidation as not being permitted under the Act and has identified a number of defects or technical concerns with the Consolidation Plan.

On March 20, 2017, Illinois State Police staff, Ms. Marci Elliot, performed a technical review of the Consolidation Plan, as required by 83 Ill. Admin. Code

1324.200(f)(1). Skokie has submitted a written response to the Department's review. These documents were made a part of the record. Skokie also seeks a waiver to the requirements of the Act if the plan is not approved.

A hearing was held before a duly authorized Administrative Law Judge, Donald W. Seasock, on June 8, 2017. Messrs. Michael Lorge, Village Corporation Counsel, James McCarthy, Village Assistant Corporation Counsel, Jason Wicha, Assistant Village Manager and John Barkhoo, Village Communications Coordinator appeared on behalf of Skokie. Mr. John Hosteny, Legal Counsel for the Illinois State Police, appeared on behalf of the Department. No representative of Lincolnwood was present.

No comments had been received by the Department regarding the Consolidation Plan and there were no requests to speak at the hearing.

EVIDENCE

Department Exhibit 1. FY 17 Invoice-Voucher, Village of Skokie

Department Exhibit 2. FY 17 Invoice-Voucher, Village of Lincolnwood

Ms. Marci Elliot provided testimony under oath.

FINDINGS OF FACT

Lincolnwood is a village and 9-1-1 authority with a population of approximately 12,646 and an ETSB. Prior to March 2017, Lincolnwood operated its own dispatch center. Skokie is a qualified governmental entity (QGE) and as a 9-1-1 authority operates its own dispatch call center within its borders. Skokie's first responder departments have been certified and are ISO-1 rated.

Sometime after the consolidation requirements of the ETSA became effective (P.A. 99-6 eff. 1-1-16) the villages entered into discussions to consolidate. This resulted in an intergovernmental agreement between the villages dated November 7, 2016. The term of the agreement runs from March 1, 2017 through April 30, 2022 with an option for either village to negotiate a mutually agreed upon renewal. The agreement requires Lincolnwood to close its dispatch center (PSAP) by March 1, 2017 with Skokie thereafter answering and dispatching all Lincolnwood police, fire and emergency medical calls for service. The agreement also requires Lincolnwood to install and implement the necessary network, radio

and other interface connections to allow Skokie to answer and dispatch for Lincolnwood. Lincolnwood pays an annual fee to Skokie for the services of Skokie's dispatch center, ranging from \$736,791 for the first year to \$895,575 for the fifth year.

On February 28, 2017, Skokie filed its Consolidation Plan. The plan includes the November 7, 2016 interagency agreement and an unsigned draft amendment to the agreement. The draft amendment designates Skokie as the 9-1-1 Authority for the villages which will receive all 9-1-1 surcharge revenues owed to both Skokie and Lincolnwood and disbursed by the State of Illinois. Skokie will remit Lincolnwood its proportional share of these revenues as determined by the State. Any discrepancy between the State's surcharge calculations and distribution to Lincolnwood will be resolved between Lincolnwood and the State.

The Consolidation Plan includes an application consisting of the following documents: A) contact and 9-1-1 system information; B) notarized statement of truth regarding information provided in the plan; C) a letter that is sent to the 9-1-1 system provider with a copy of the plan; D) a detailed summary of the proposed system's operation. It does not contain a five-year strategic plan for implementation of the consolidation with financial projections and information as to how the plan will assist with achieving the statutory goals enumerated in ETSA Section 5.4b(a). 83 Ill. Adm. Code 1324.200(c)(1).

The Consolidation Plan includes the financial information required by Section 200(c)(1)(E) of Part 1324. The Consolidation Plan will result in a decrease in the number of answering positions from 7 to 5 after the consolidation. The number of dispatchers will be reduced from 25 full-time dispatchers and 2 part-time dispatchers to 23 and 0 respectively. After consolidation the network costs will be reduced from \$78,361.68 to \$74,773.68. Lincolnwood ETSB has no reserves. The total network costs to the State will be \$74,773.68. There are no recurring or nonrecurring consolidation costs. Total revenue is \$475,000.

The Consolidation Plan provides the following in compliance with Section 200(c)(1)(F) - (I) of Part 1324: a list of all communities that are served by the 9-1-1 system; a list of public safety agencies that are dispatched by the 9-1-1 system; a list of the public safety agencies that are adjacent to the 9-1-1 system's geographic boundaries; and a list of the carriers and interconnected VoIP providers that are known by the Applicant to provide service within the jurisdiction of the 9-1-1 system.

The Consolidation Plan does not include an ordinance adopted by Lincolnwood dissolving its ETSB or a Test Plan. 83 Ill. Adm. Code 1324.200(C)(1)(J). The Consolidation Plan did include the network diagram that is provided by the 9-1-1 system provider, all call handling agreements already in place and the back-up PSAP agreement with Northbrook.

Since March 1, 2017 Skokie has been providing 9-1-1 answering and dispatch services for Lincolnwood. Lincolnwood has closed its dispatch center.

ANALYSIS

There is no dispute that since Lincolnwood's population does not meet the statutory population threshold to maintain its ETSB it must consolidate under 50 ILCS 750/15.4a (2). 'Consolidate' is defined by rule to mean a reduction of ETSBs, JETSBs, QGEs and PSAPs pursuant to ETSA section 15.4a. 83 Ill.Admin.Code 1324.110. Section 15.4a (2), this definition and section 15-4(e) discussed below make it clear that Lincolnwood must dissolve its ETSB. Lincolnwood has not done so and the Consolidation Plan is currently legally deficient.

Assuming Lincolnwood does dissolve its ETSB, the Department and Skokie are at issue over whether Skokie, as a QGE and a 9-1-1 Authority, may 'consolidate' with Lincolnwood under 50 ILCS 750/15.4a without creating a JETSB with Lincolnwood. While section 15.4a (2) does not specifically address this issue other sections of the ETSA provide guidance.

50 ILCS 750/15.4(e) provides that after January 1, 2016 no municipality or county may create an ETSB unless the board is a JETSB. The corporate authorities of any county or municipality entering into an intergovernmental agreement to create or join a JETSB shall rescind the ordinance creating the original ETSB and shall eliminate the ETSB effective upon the creation, with regulatory approval by the Administrator, or joining the JETSB. This section was inserted into the ETSA by P.A. 99-6, as was the consolidation provision of 15.4a.

50 ILCS 750/30(d) provides that whenever two or more 9-1-1 Authorities consolidate, the resulting JETSB shall be entitled to the monthly surcharge payments that had theretofore been made to each consolidating 9-1-1 Authority. Additionally, pursuant to 50 ILCS 750/35 and 750/40 the 9-1-1 authority receiving the surcharge payments is required to approve 9-1-1 expenditures and is required to make certain financial reports to the

Department on how the money was spent These provisions were also inserted into the ETSA by P.A. 99-6.

In considering the meaning of ‘consolidate’ and the sections inserted into the ETSA by P.A. 99-6 the Administrative Law Judge finds that a QGE cannot consolidate with another municipality without creating a JETSB with that other municipality.

In further support of this finding the Administrative Law Judge has considered the draft amendment to the intergovernmental agreement which designates Skokie as the 9-1-1 Authority for the villages to receive surcharge payments. This amendment simply acts as pass-through of Lincolnwood funds by Skokie. Lincolnwood would then be responsible to settle any dispute regarding these funds directly with the State. As such, Skokie, while designated as the 9-1-1 authority for the villages, is not acting as such. This analysis demonstrates that the Consolidation Plan is attempting to have a QGE act as a JETSB without creating such a board.

As a further point, under section 15.4a(a)(6), any 9-1-1 Authority that does not have a PSAP within its jurisdiction shall be consolidated through an intergovernmental agreement with an existing 9-1-1 Authority that has a PSAP to create a JETSB. Since Lincolnwood does not have PSAP within its jurisdiction as of March 1, 2017 the Consolidation Plan and villages, without having first received the approval of the Administrator or having created a JETSB between the two (50 ILCS 750/15.4(e)), are now in violation of section 15.4a(a)(6). Again, the Consolidation Plan is attempting to have a QGE act as a JETSB without creating such a board.

If the Consolidation Plan is not approved, Skokie seeks a waiver. A waiver to consolidation required under section 15.4a may be granted if the Administrator finds that the consolidation will result in a substantial threat to public safety, is economically unreasonable or is technically infeasible. 50 ILCS 750/15a(c).

Skokie’s request for waiver is misplaced. A waiver, if granted, relieves a particular unit of government from the requirement of consolidating by July 1, 2017. It is not intended to relieve the particular unit of government from complying with the requirements of how to consolidate under the ETSA. Even if such a waiver were applicable here, Skokie has not demonstrated a basis to grant such relief. Rule requires the waiver request to identify the duration of time for which the waiver is sought. 83 Ill.Admin.Code 1324.200 e). In this case,

the waiver is perpetual. Skokie makes it clear that it will not give up its QGE status and possibly lose some control over its 9-1-1 system if it were to create a JETSB with Lincolnwood. While this may be a valid policy for the village to adopt it does not support a request for waiver. Additionally, the fact that Skokie has been acting as Lincolnwood's 9-1-1 call answering and dispatch service since March 2017 is a self-created *fait accompli*. It is recognized, however, that Lincolnwood will need time in order to consolidate with another authority.

CONCLUSIONS OF LAW

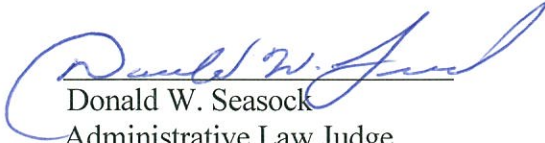
The Administrative Law Judge concludes as a matter of law the following:

1. The Statewide 9-1-1 Advisory Board and the Administrator have jurisdiction over the subject matter and the parties in this case;
2. The Skokie Police/Fire Communication Center – Lincolnwood Consolidation Plan does not meet the requirements of the Emergency Telephone System Act, 50 ILCS 750 et seq.
3. Applicant's request for an indefinite waiver from the 9-1-1 consolidation requirements of the Emergency Telephone System Act does not meet the requirements of 50 ILCS 750/15a(c).

RECOMMENDATION

IT IS THEREFORE RECOMMENDED that the Skokie Police/Fire Communication Center - Lincolnwood Consolidation Plan not be approved. It is further recommended that the Village Lincolnwood be granted a waiver to consolidation for a period of two years.

This Recommended Decision of the Administrative Law Judge is issued this 6th day of July, 2017.


Donald W. Seasock
Administrative Law Judge