

**STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION**

In the Matter of )

Chester Bross Construction Company, )

Respondents )

**NOTICE OF SUSPENSION AND INTERIM SUSPENSION**

To: Chester Bross Construction Company  
P.O.Box 430  
Hannibal, MO 63401

The State of Illinois, Department of Transportation, pursuant to Section 50-65 of the Illinois Procurement Code (30 ILCS 500/50-65) and Title 44 Illinois Administrative Code, Section 660.520 and Section 660.610, in order to safeguard the public interest in the solicitation, execution, administration and performance of public contracts hereby notifies Chester Bross Construction Company ("Bross"), that the Department proposes to suspend Bross from participating on any contract awarded by or requiring approval or concurrence of the Illinois Department of Transportation (herein "Department").

The basis for these actions includes one or more of the following allegations:

1. The Illinois Procurement Code ("Code"), Section 30-22 (6) provides as follows:

"The bidder and all bidder subcontractors must participate in applicable apprenticeship and training programs approved and registered with the United States Department of Labor's (USDOL ) Bureau of Apprenticeship and Training."

This is commonly referred to as "The Responsible Bidder Provision."

2. The Department has established policies and procedures for the implementation of this provision of the law, These policies and procedures are found in Chapter Twelve, "Letting and Contract Award," of the IDOT Bureau of Local Roads and Streets (BLRS) Manual.
3. To bid on a particular construction project and to be considered a responsible and responsive bidder, contractors are required to prepare and return with the bid an Apprenticeship or Training Program Certification, a copy of which is attached as Exhibit X. The requirements of this certification and disclosure are a material part of the construction contract.
4. Bross was the low bidder on several General Maintenance projects on the IDOT June 11, 2010 Letting. Specifically, Bross was the low bidder on the following projects:

- Contract # 72C43, Pike County
- Contract # 72B45, Pike County
- Contract # 72D14, Adams County
- Contract # 93503, Adams County
- Contract # 72D69, Scott County

Bross's bid documents did not certify and disclose that it intended to use the Trade of Laborer for these construction projects and that it participated in an apprenticeship or training program for the Trade of Laborer.

5. The Department received a protest on these projects within the allotted seven day protest period and notified Bross that a protest for the Trade of Laborer was received by the Department (Exhibit A).
6. Bross responded with a communication dated July 2, 2010, misrepresenting to the Department that the Trade of Laborer would not be used on these projects (Exhibit B).
7. Based on Bross's misrepresentation, the Department denied the protest and communicated that result to the protester, International Union of Operating Engineers, Local Union No. 965 and the Department's District BLRS office so that the contracts could be awarded to Bross (Exhibit C).
8. The Audit Unit submitted Audit report No. 11-13-006 entitled "Chester Bross Construction Company, Responsible Bidder Investigation/Audit" (Exhibit D). This report covers a review of the CTP for the following projects:
  - Contract # 72C43, Pike County
  - Contract # 72B45, Pike County
  - Contract # 72D14, Adams County
  - Contract # 93503, Adams County
  - Contract # 72D69, Scott County
9. The Audit Report concludes that several employees were listed as and paid the prevailing wage for the Trade of Laborer on Contract # 72D14.
10. Bross made material false statements, representations, claims or reports in its documentation submittals in support of its compliance with the responsible bidder provisions of the Illinois Procurement Code (30 ILCS 500/30-22), and, in doing so, did materially violate the Responsible Bidder provisions of the Illinois Procurement Code and bring into question the eligibility of Bross as the apparent low bidder for the above projects.
11. Bross's submission of false records to the Department in relation to Department State projects related to services performed by its employees and compensated by the local governments appears to constitute theft in violation of the Illinois Criminal Code (720 ILCS 5/16-1).

12. Bross's submission of false records to the Department for the purpose of influencing in any way the action of the Department in considering Bross's bid for the above contract #72D14 appears to violate the Illinois Criminal Code (720 ILCS 5/33E-14).
13. Bross's submission of false records and material misrepresentations constitutes fraud, theft or other misconduct and offenses prohibited by law, whether or not any such misconduct or offense is in connection with a Department contract or any contract requiring Department approval, and demonstrates a lack of responsible business integrity and honesty. 44 Ill. Admin. Code §660.520(a).
14. Bross's submission of false records and material misrepresentations materially violates a rule or procurement procedure of the Department and demonstrates a lack of responsible business integrity and honesty. 44 Ill. Admin. Code §660.520(c).
15. Bross's submission of false records, material false statements and representations respecting the character, quality, quantity, or cost of any work performed in connection with a contract administered or supervised by the Department demonstrates a lack of responsible business integrity and honesty. 44 Ill. Admin. Code §660.520(d).

### **INTERIM SUSPENSION**

Pursuant to 44 Illinois Administrative Code, Section 660.530, I find that immediate action is necessary to safeguard the public interest in the solicitation, execution, administration and performance of public contracts. The reasons for the interim suspension are set forth in paragraphs (1) through (15) above. The interim period of suspension will continue for the duration of 120 days unless terminated sooner. The duration of the interim suspension may be extended pending completion of a hearing, if necessary. Therefore, until the completion of an investigation of the causes for suspension and hearing on the merits, if necessary, Bross Construction Company is subject to an immediate suspension on all existing or pending contracts with the Department or subject to the approval of the Department. Further, Bross Construction Company shall not be eligible for selection as a contractor, for approval as a subcontractor under prime contract proposals, or for approval in either capacity on a contract with the Department or subject to the approval of the Department during the period of interim suspension.

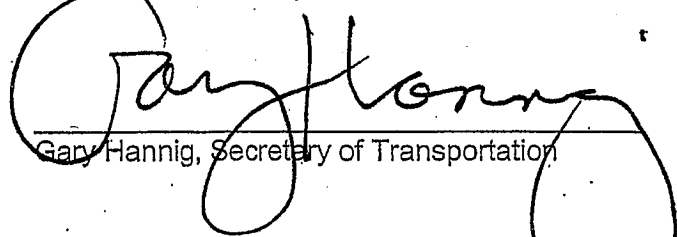
### **RESPONDENT'S RIGHTS UNDER THE CODE**

1. Any contractor receiving a notice of suspension may, within thirty (30) days after receipt of a notice, file an appearance and request for hearing. A contractor that does not file an appearance and request a hearing within the thirty (30) days after receipt shall be deemed to have waived any hearing and will be subject to immediate suspension. (44 Ill. Admin. Code 660.620)
2. A contractor receiving an interim suspension may, within thirty (30) days of a notice that imposes an interim suspension, submit, in person, in writing, or through a representative, information, documentation and argument in opposition to the interim suspension for the Secretary's consideration. 44 Ill. Admin. Code 660.620(b).

3. Upon receipt of an appearance and request for hearing, the Secretary will set the matter for a hearing within thirty (30) days, and notify the contractor of the place, time and date of the hearing and the designated hearing officer. (44 Ill. Admin. Code 660.630)
4. The contractor may file a written notice for disqualification of a Hearing Officer, setting forth reasons of personal bias or conflict of interest, within three (3) days after the appointment of the Hearing Officer. (44 Ill. Admin. Code 660.630)
5. The contractor may file a written answer to a notice not later than twenty (20) days prior to the hearing date, but shall not be required to file an answer. The answer may include affirmative defenses. (44 Ill. Admin. Code 660.640)
6. Notices shall be directed to Lance T. Jones, Office of Chief Counsel, 2300 S. Dirksen Parkway, Room 313, Springfield, IL 62764.

This Notice of Suspension and Interim Suspension is issued and served this 8<sup>TH</sup> day of June 2011 at Springfield, Illinois.

Department of Transportation



Gary Hannig, Secretary of Transportation



Bill Grunloh, Chief Procurement Officer

Department Attorney: Lance T. Jones, Deputy Chief Counsel  
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