

**STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION**

In the Matter of

Glenn McCann Company, Inc.

Respondents

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**NOTICE OF SUSPENSION AND INTERIM SUSPENSION**

To: Glenn McCann Company, Inc.  
P.O.Box 11  
Ransome, IL 60470

The State of Illinois, Department of Transportation, pursuant to Section 50-65 of the Illinois Procurement Code (30 ILCS 50/50-65) 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 Glenn McCann Company, Inc. ("Glenn McCann"), that the Department and the Chief Procurement Officer for the Department propose to suspend Glenn McCann 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. Glenn McCann was the low bidder on several General Maintenance projects on the Kendall County April 14, 2009 letting. Specifically, Glenn McCann was the low bidder on the following projects:

- 09-05000-00-GM
- 09-04000-00-GM
- 09-03000-00-GM
- 09-01000-00-GM

Glenn McCann'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 Glenn McCann that a protest for the Trade of Laborer was received by the Department (Exhibit A-1).
6. Glenn McCann responded with a communication dated April 30, 2009, misrepresenting to the Department that the Trade of Laborer would not be used on these projects (Exhibit B-1).
7. Based on Glenn McCann's misrepresentation, the Department denied the protest and communicated that result to the protester, Glenn McCann and the Department's District BLRS office so that the contracts could be awarded to Glenn McCann (Exhibit C-1).
8. Glenn McCann was the low bidder on a General Maintenance project on the Kendall County letting on September 8, 2009 for work in the Village of Kinsman: Project No. 09-0000-01-GM. Glenn McCann's bid documents did not certify that it intended to use the Trade of Laborer for this construction project and that it participated in an apprenticeship or training program for the Trade of Laborer.
9. The Department received a protest on this project within the allotted seven day protest period and notified Glenn McCann that a protest for the Trade of Laborer was received by the Department (Exhibit A-2).
10. Glenn McCann responded with a communication dated September 23, 2009 to the Department stating that they were a participant in a USDOL approved and registered program for the Trade of Paving Asphalt Machine Operator and Heavy Truck Driver and that these were the Trades to be used on this project (Exhibit B-2). Glenn McCann intentionally omitted that it intended to use Laborers and failed to demonstrate that it participated in an approved apprenticeship or training program for the Trade of Laborer.
11. Based on Glenn McCann's misrepresentation, the Department denied the protest and communicated that result to the protester, Glenn McCann and the Department's District BLRS office so that the contracts could be awarded to Glenn McCann (Exhibit C-2).
12. Glenn McCann was the low bidder on the Kendall & Grundy County letting on May 3, 2010 for several General Maintenance projects. Specifically, Glenn McCann was the low bidder on the following projects:

- 10-16000-00-GM
- 10-00000-00-GM
- 10-06000-00-GM
- 10-13000-00-GM
- 10-15000-00-GM

Glenn McCann's bid documents did not certify 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.

13. The Department received a protest on these projects within the allotted seven day protest period and notified Glenn McCann that a protest for the Trade of Laborer was received by the Department (Exhibit A-3).
14. Glenn McCann responded with a communication dated May 17, 2010, misrepresenting to the Department that the Trade of Laborer would not be used on these projects (Exhibit B-3).
15. Based on the representations of Glenn McCann, the Department denied the protest and communicated that result to the protester, Glenn McCann and the Department's District BLRS office so that the contracts could be awarded (Exhibit C-3).
16. In August 2010 the Department requested that the Audit Unit of the Department's Office of Quality Compliance and Review to review the Certified Transcript Payrolls (CTP) submitted by Glenn McCann for the above projects and report its findings. The CPTs were collected by the Audit Unit and reviewed.
17. The Audit Unit submitted Audit report No. 11-13-004 entitled "Glenn McCann Co., Inc. Responsible Bidder Investigation" (Exhibit D). This report covers a review of the CTP for the following projects:
  - 09-05000-00-GM, 09-04000-GM, and 09-01000-00-GM
  - 09-0000-01-GM
  - 10-16000-00-GM, 10-00000-00-GM, 10-06000-00-GM, 10-13000-00-GM, and 10-15000-00-GM
18. The Audit Report concludes that several employees on each week of payroll examined were listed as and paid the prevailing wage for the Trade of Laborer.
19. The Department asserts that Glenn McCann 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 Glenn McCann as the apparent low bidder for the above projects.
20. Glenn McCann submission of false or misleading records to the Department in relation to local roads projects for Kendall County and Grundy County related to services performed by its employees and compensated by the local governments would appear to constitute theft in violation of the Illinois Criminal Code (720 ILCS 5/16-1).

21. Glenn McCann's submission of false records to Kendall County, Grundy County and the Department for the purpose of influencing, in any way, the action of Kendall County and Grundy County in considering Glenn McCann's bid for the above local road projects would appear to violate the Illinois Criminal Code (720 ILCS 5/33E-14):
22. Glenn McCann's submission of false records and material misrepresentations would appear to constitute 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).
23. Glenn McCann'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).
24. Glenn McCann'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 (24) 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, Glenn McCann is subject to an immediate suspension on all existing or pending contracts with the Department or subject to the approval of the Department. Further, Glenn McCann 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.

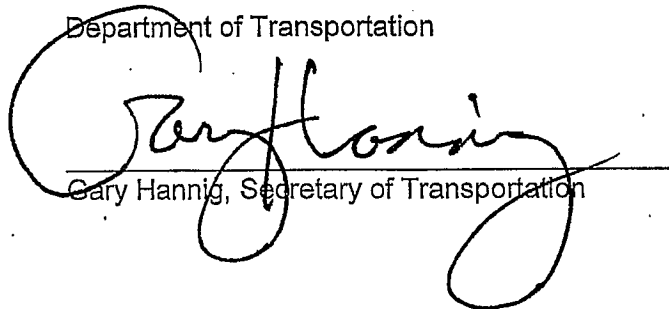
### **RESPONDENT'S RIGHTS UNDER THE CODE**

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 Ellen Schanzle-Haskins, Office of Chief Counsel, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Room 300, 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

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