

**STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION**

IN THE MATTER OF,)	
)	
Carlson Bros., Inc.)	2020-S-0001
)	
Respondent(s))	
)	

NOTICE OF SUSPENSION AND INTERIM SUSPENSION

To: Robb Carlson, President
Carlson Bros., Inc.
17250 New Lennox Road
Joliet, Illinois 60433

The Chief Procurement Officer for the State of Illinois, Department of Transportation ("CPO"), pursuant to Title 44 Illinois Administrative Code, Sections 6.510, 6.520, 6.530, in order to safeguard the public interest in the solicitation, execution, administration and performance of public contracts hereby notifies Mr. Robb Carlson, President, and Mr. Mark Carlson, Secretary, as representatives and owners of Carlson Bros, Inc. (collectively referred to hereafter as "Carlson"), with its principal place of business at 17250 New Lennox Road, Joliet, Illinois 60433 that the CPO proposes to suspend Carlson from bidding on or participating in any new contract awarded by or requiring approval or concurrence of the Illinois Department of Transportation (herein "Department" or "IDOT").

The bases for these actions include one or more of the following allegations:

1. Title 44, Illinois Administrative Code, Section 6.520, states in part, "A contractor or subcontractor may be suspended or debarred from participation due to acts or omissions that indicate that the contractor or subcontractor lacks integrity and honesty in the conduct of business or the performance of contracts. Acts or omissions that indicate the lack of business integrity and honesty include but are not limited to:

...

C) Materially violating any rule or procurement procedure or making a material false statement in connection with any rules or procurement procedures of the Department;

D) Making a material false statement, representation, claim or report respecting the character, quality, quantity, or cost of any work performed or materials furnished in connection with a contract or subcontract administered or supervised by the Department.”

2. In complying with 49 CFR Part 26 *et seq.* and Appendix A to Part 26, “a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the [disadvantaged business enterprise “DBE”] goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn’t meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.”
3. 49 CFR 26.13 specifically states that “the contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of [IDOT]-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract...”
4. A requirement of 49 CFR 26 *et seq.* is to submit DBE form 2025 that states the “undersigned certify that the information included herein is true and correct, and that the DBE firm listed below has agreed perform a commercially useful function in the work of the contract item(s) listed above ... [and that] ... complete and accurate information regarding actual work performed on this project and the payment therefore must be provided to the [City of Joliet and the] Department.”
5. In a March 10, 2020 hearing conducted pursuant to 49 CFR 26.53, Mr. Christopher Salomon, a Carlson Estimator who acted with authority from Carlson Vice President Mr. Mark Carlson to prepare and submit a bid on behalf of Carlson for a project funded in large part through a grant agreement between the City of Joliet and IDOT, through the IDOT Office of Intermodal Project Implementation, admitted that he “had signed the form himself, pretending to be a DBE entity submitting a participation statement and generated the \$570,547.00 from calculations he made using rates charged by a DBE firm the Company hoped to

subcontract with for the project – Devine Cement, Inc. Mr. Salomon testified he had “chased” Devine’s owner, Lawrence Green, with many phone calls prior to the bid trying to secure the subcontractor’s participation, but none of his calls were returned. After the bid was submitted containing the false Form 2025, Mr. Salomon spoke with Mr. Green who indicated he had no intention of submitting a subcontractor bid to the Company but had apparently done so with other general contractors who had bid on the project,” as more thoroughly described in the written Decision of Reconsideration authored by Mr. Thomas Sonneborn, attached hereto and incorporated herein.

5. As a result, Carlson appears to have intentionally violated the requirements set forth in 49 CFR 26, “Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” on at least City of Joliet contract 2449-0120, funded by IDOT.

Carlson, through its acts, omissions and/or misconduct, whether or not any such misconduct or offense is in connection with a Department contract or any contract requiring Department approval, has demonstrated it lacks the responsible business integrity and honesty to contract with the Department. See, 44 Ill. Adm. Code 6.520(a), (c) and (d).

INTERIM SUSPENSION

Pursuant to 44 Illinois Administrative Code, Section 6.530, 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 for in paragraphs (1) through (5) above. Therefore, until the completion of an investigation of the causes for suspension and hearing on the merits, if necessary, Carlson is subject to an interim suspension. Carlson shall not enter into or attempt to enter into, or participate in, a contract awarded, approved or funded, in any part, by the Department, irrespective of the method of procurement, or any subcontract, material supply agreement or equipment lease transaction in connection with any such contract, pending further notice.

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 full suspension. (44 Ill. Admin. Code 6.620)
2. Upon receipt of an appearance and request for hearing, the CPO 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 6.630)
3. 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 6.630)
4. The contractor may file a written answer to a notice not later than twenty (20) day prior to the hearing date, but shall not be required to file an answer. The answer may include affirmative defenses. (44 Ill. Admin. Code 6.640)
5. Within 30 days after receipt of a notice that imposes an interim suspension, the contractor may submit, in person, in writing, or through a representative, information, documentation and argument in opposition to the interim suspension. The Chief Procurement Officer will consider the contractor's submission in light of the evidence developed in the pending investigation, and may modify or terminate the suspension or may leave it in force. The Chief Procurement Officer's decision concerning imposition of an interim suspension is final without further hearing (44 Ill. Admin. Code 6.620).
6. Notices shall be directed to Mr. Michael Prater, Deputy Chief Counsel, Office of Chief Counsel, 2300 S. Dirksen Parkway, Springfield, IL 62764.

This Notice of Suspension and Interim Suspension is issued and served this 26th day of March, 2020 at Springfield, Illinois.

Department of Transportation

A handwritten signature in black ink, appearing to read "Bill Grunloh", written over a horizontal line.

Bill Grunloh, Chief Procurement Officer