**Section 871.303 Compliance With Procurement Requirements**

a) Grantee Responsibility

The grantee is responsible for selecting the low, responsive bidder or other contractor in accordance with applicable requirements of State or local laws or ordinances, as well as the specific requirements of State and federal law or the grant agreement directly affecting the procurement (for example, the non-restrictive specification requirement or the equal employment opportunity requirement) and for the initial resolution of complaints based upon alleged violations. If complaint is made to the Agency concerning an alleged violation of any law or of this grant agreement in the procurement of services or materials for a project, the complaint will be referred to the grantee for resolution. The grantee shall promptly determine each such complaint upon its merits permitting the complaining party as well as any other interested party who may be adversely affected, including bidders on the contract in question, to state in writing or at a conference the basis for views concerning the proposed procurement. The grantee must promptly furnish to the complaining party and to other affected parties who participated in the conference or submitted written comments, by certified mail, a written summary of its determination, substantiated by an engineering and legal opinion, providing a justification for its determination.

b) Arbitration

Disputes between the grantee and any party adversely affected by the determination of the grantee made pursuant to subsection (a) above shall be resolved by binding arbitration by a single arbitrator, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (140 W. 51st Street, N.Y., N.Y. 10020, 1986). (This incorporation contains no further amendments or editions.) This agreement to arbitrate shall be specifically enforceable under the Uniform Arbitration Act [710 ILCS 5]. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in any court having jurisdiction thereof. A copy of the arbitration award shall be provided to the Agency immediately upon its issuance.

c) Time Limitations

Complaints pursuant to subsection (a) above shall be made as early as possible during the procurement process, preferably prior to issuance of an invitation for bids to avoid disruption of the procurement process, provided that a complaint authorized by subsection (a) above must be mailed by certified mail (return receipt requested), or delivered, no later than five working days after the bid opening. A request for arbitration pursuant to subsection (b) above must be made to the American Arbitration Association within one week after the complaining party received the grantee's adverse determination.

d) Deferral of Procurement Action

Where the grantee has received a written complaint pursuant to subsection (a) above, it must defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for ten days after mailing or delivery of any written adverse determination. If a determination is made by either the grantee or the arbitrator which is favorable to the complainant, the terms of the solicitation must be revised or the contract must be awarded (as appropriate) in accordance with such determination.

e) Enforcement

Noncompliance with the provisions of this grant affecting procurement will result in:

1) Total or partial termination of the grant pursuant to Section 871.203;

2) Ineligibility for grant assistance which could otherwise be awarded under this grant; or

3) Disallowance of project costs incurred in violation of the provisions of this grant offer or applicable laws, as determined by the Agency.

(Source: Amended at 19 Ill. Reg. 11821, effective August 3, 1995)