**Section 40.900 Violations by Vendor**

Should a vendor violate the Code, this Part, or the terms of contracts let pursuant to this Program, the State may pursue any or all of the following actions:

a) A certified vendor may be decertified and an applicant for certification may be denied certification for reasons including, but not limited to:

1) Refusal to supply information sufficient for the Program or the Committee to make a determination for eligibility or continued eligibility;

2) Refusal to supply additional proof of eligibility for the Program, particularly after receiving a contract with the advance or progress payment (Special Assistance) provisions;

3) Accepting a contract with the advance or progress payment (Special Assistance) provisions when the vendor does not qualify for the Program; or

4) Any other violation of the Code or this Part.

b) The State, in consultation with the CPO's office, may cancel, without penalty to the State, any contract entered into by a vendor in violation of:

1) The Code or this Part;

2) The requirements of a contract let with the advance or progress payment (Special Assistance) provisions; or

3) Commitments regarding use of certified vendors, including, but not limited to, those in Section 40.540 (Sales Limitation; Exception) and Section 40.810 (Good Faith Efforts and Waiver Request Procedures).

c) In the case of a cancellation, the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits, the vendor shall be liable to pay back to the State any balance of those profits. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proven.

d) Suspension of Vendor

1) The CPO or CMS, pursuant to the relevant statute, may suspend a vendor for a period of not less than 3 years and a contracting agency may cancel a contract for a violation of:

A) The Code or this Part;

B) The requirements of a contract let with the advance or progress payment (Special Assistance) provisions; or

C) Commitments regarding use of certified vendors, including, but not limited to, those in Section 20.540 (Sales Limitation; Exception) and Section 20.810 (Good Faith Efforts and Waiver Request Procedures).

2) Except for any person who commits a violation of Section 17-10.3 (Deception of a Public Agency) or 33E-6(d) (Interference with a Public Agency) of the Illinois Criminal Code of 2012 [720 ILCS 5], will be suspended for a period of not less than 3 years.

e) Depending on the seriousness of the violation, the suspension shall be:

1) From participation in the Program; or

2) From further contracting with the State.

f) A vendor may appeal any of the actions of the Committee taken pursuant to this Section in the same manner as a vendor denied certification (see Subpart G of this Part).

g) CMS shall notify the Chief Procurement Officers, State Purchasing Officers and other interested parties of SDVOSBs or VOSBs whose certification has been either suspended or revoked within 3 business days.

h) If any agency finds or suspects that a business is in violation of the Code or this Part, the violation should be reported to CMS immediately upon that finding.

i) Each State agency shall report to CMS any violations of Section 17-10.3 or 33E-6(d) of the Criminal Code of 2012. CMS shall monitor the status of reported violations of these statutes and subsequently report all such allegations to the Attorney General, who shall further determine whether to bring civil action against any person for the violation.

j) CMS shall monitor the status of all reported violations of Section 17-10.3 or 33E-6(d) of the Criminal Code of 2012.

k) If a person is suspended for violations of Section 17-10.3 or 33E-6(d) of the Criminal Code of 2012, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor for the entire suspension period.

l) If a person is suspended for violations of Section 17-10.3 or 33E-6(d) of the Criminal Code of 2012 and is certified as a SDVOSB or VOSB, then CMS shall revoke the business' certification for a period not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period not less than 5 years. The suspension and revocation shall apply to principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(Recodified from Section 20.900 of 44 Ill. Adm. Code 20 (Central Management Services) pursuant to Section 45-57 of the Illinois Procurement Code [30 ILCS 500/45-57], at 47 Ill. Reg. 12484)