

1230.1000 CONTRACT PERFORMANCE.

Subpart 1. **Shipment.** The director or authorized agents of state agencies shall place orders with successful responders using official state contract documents. Upon award, shipment must be made in accordance with delivery instructions in the ordering document.

Subp. 2. **Inspection.** The state may require that the vendor permit inspection of the goods prior to shipment at the factory, plant, or establishment where produced, manufactured, or stored. Unless provision for inspection is made in the solicitation, costs incurred must be paid by the state.

Subp. 3. **Grounds for rejection.** All deliveries must conform to all terms, conditions, and specifications of the solicitation. Failure in this respect is cause for rejection of the goods. Goods that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition must be rejected except as provided in subpart 7.

Subp. 4. **Notice of rejection.** Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, must be given by the receiving agency to both vendor and the carrier (if f.o.b. shipping point) within a reasonable time after delivery, with a copy of this notice to the division. A revocation of acceptance for latent deficiencies that would make the goods unsatisfactory for the purpose intended must be given by the state within reasonable time after discovery. The contractor shall satisfactorily repair or replace such goods within a reasonable time.

Subp. 5. **Removal of rejected goods.** The vendor shall remove at the vendor's expense any goods rejected by the state. If the vendor fails to remove the goods and instead forwards shipping instructions to the agency concerned, the state need not comply, but may sell the goods and remit the proceeds of sale, less the expense involved, in accordance with law, including, but not limited to, Minnesota Statutes, section 336.2-603.

Subp. 6. **Replacing rejected goods.** If the needs of a state agency do not permit time to replace rejected goods, or if deliveries are not made within the time specified in the contract, the agency may, with the approval of the director, buy on the open market goods of the nature required. The vendor shall be liable for all additional costs and expenses.

Subp. 7. **Adjusting price of nonconforming goods.** If it is determined that goods do not conform strictly to specifications, but can be used satisfactorily, the director, with written acquiescence of the vendor, may adjust the price and authorize the agency to keep and use that part of the order when it is determined by the director to be in the best interest of the state.

Subp. 8. **Laboratory tests.** The director may require that a laboratory analysis or other tests be made to determine the acceptability of the delivered goods and to ensure that those goods meet specifications. When analyses or tests are required, acceptance by

the state must not occur nor be deemed to have been made until testing is completed and affirmative results are obtained. Any discount time applicable begins after affirmative results are obtained. Vendors must be notified of unsatisfactory test results. Unless provisions for laboratory analysis or tests are contained within the solicitation document, costs incurred for them must be paid by the state.

Statutory Authority: *MS s 16B.04; 16B.18; 16B.19; 16B.22; 16C.03; 16C.16; 16C.19*

History: *16 SR 194; 28 SR 499*

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