

1230.1100 FAILURE TO PERFORM.

Subpart 1. **Penalties.** If a responder who is awarded a contract fails to perform as specified, the security as described in part 1230.0500, subpart 1, must be retained by the state as liquidated damages. The vendor may also be determined not to be a responsible vendor and may be subject to suspension or debarment pursuant to part 1230.1150. The state may also pursue all other remedies permitted by rule or provided by law.

If the security is in the form of a bond, the bonding company must be notified in writing of the default. A vendor awarded a contract who fails to enter into the contract may be determined not to be a responsible vendor regardless of whether security was required. The state may seek further damages and shall not be limited by the absence or existence of a bond. In all cases of default, the vendor may be determined not to be a responsible vendor and may be subject to suspension or debarment pursuant to part 1230.1150.

Subp. 2. **Failure to furnish security.** After the award of a contract, if performance security is required and the vendor fails to furnish satisfactory performance security, the vendor shall be considered in default and subject to subpart 1.

Subp. 3. **Types of failure to conform to contract requirements.** A vendor must be held in default for failure to conform to contract requirements, solicitation terms, conditions, and specifications, or standard commercial practices including, but not limited to, the following:

- A. failure to make deliveries within the time specified in the contract; or
- B. deliveries of goods or materials that do not conform to samples or specifications; or
- C. delivery of goods or materials that are rejected; or
- D. misbranding or materially misrepresenting goods or materials purchased under the contract.

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

History: *16 SR 194; 17 SR 1279; L 2003 c 112 art 2 s 50; 28 SR 499*

Published Electronically: *January 14, 2005*