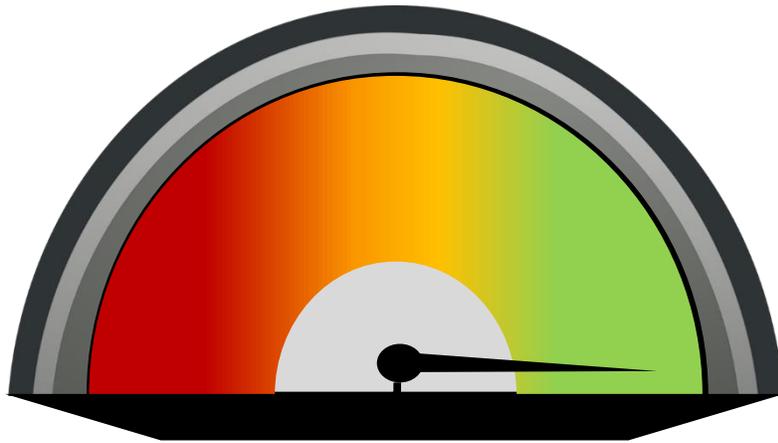


NEBRASKA

DEPT. OF ADMINISTRATIVE SERVICES

MATERIEL DIVISION - STATE PURCHASING BUREAU (SPB)



VENDOR PERFORMANCE PROGRAM GUIDE

VERSION 1.1

Effective: 06/01/2022

Guide & referenced documents are located at: <http://das.nebraska.gov/materiel/VendorPerformance.html>

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I. INTRODUCTION

The Vendor Performance Program has been established to address and resolve issues that may arise between agencies and external vendors. **It is important to note that this program does not replace the need for contract management.**

When a contract has been awarded to a vendor by the State of Nebraska, it is assumed that both parties have entered into the agreement in good faith, and will perform their respective duties and obligations in accordance with the contract. When a vendor provides goods or services which meet the contract specifications, at the agreed upon price per unit, and with the quality as required by the contract, this is considered acceptable performance by the vendor.

Some helpful tips to encourage successful vendor relationships include:

- Fully understanding the contract requirements
- Documenting throughout the life of the contract
- Setting clear expectations early
- Assuring invoices are paid timely in accordance with the contract requirements
- Communicating regularly and respectfully
- Being ethical, fair, and reasonable

Agencies may be adversely impacted when vendors fail to meet their contractual obligations. By properly documenting and communicating poor vendor performance (non-performance) experiences with the vendor in a timely manner, vendors will develop a clear understanding of the State’s performance expectations.

Examples of non-performance include, but are not limited to:

- Unauthorized substitutions
- Damaged shipments
- Invoice inaccuracies
- Unauthorized price changes
- Missed scheduled delivery times
- Late worker arrivals
- Any other contract requirement not being met

When an agency determines a vendor is not meeting their contractual obligations, the issue should be addressed in a timely manner. Agencies should not wait until it is time to award a new contract to decide that the vendor is not performing as required, or that the product does not meet their specifications. When documentation is lacking or non-existent, it is extremely difficult to consider a vendor's past performance with the State when the time comes to award a new contract.

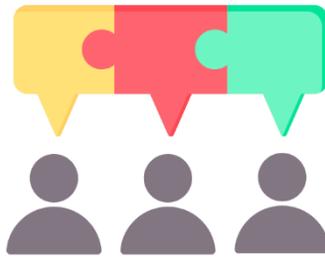
Bringing an issue to the vendor's attention may also help their organization identify a problem with their own internal processes, which may lead to improved experiences in future purchases.

II. PROGRAM GOALS



Improve

overall vendor performance on all State contracts.



Encourage

effective communication between using agencies and vendors.



Build

histories of vendor performance over time, allowing agencies to consider past contract performance when awarding a new contract.

III. PROGRAM OVERVIEW

A. Vendor Performance Notice (VPN)

Agencies are encouraged to address issues directly with their vendor by using the Vendor Performance Notice (VPN) template to send an official notice of non-performance to the vendor. **(VPNs for contracts owned or maintained by the State Purchasing Bureau (SPB) must be submitted to DAS Materiel/SPB for approval prior to sending).** In many situations, agencies are able to work with their vendor to find a mutually beneficial solution. The agency should follow up with the vendor until the problem is resolved.

To view full Non-Performance Resolution Process, see section IV. A. below.
To download the template, or view instructions for completing a VPN, please visit: <http://das.nebraska.gov/materiel/VendorPerformance.html>.

B. Vendor Improvement Request (VIR)

If an agency is unable to resolve an issue after sending a VPN – or after they have experienced a public safety issue – they may request assistance from DAS Materiel/SPB to facilitate a resolution. This is documented through a Vendor Improvement Request (VIR).

To view full Non-Performance Resolution Process, see section IV. A. below.
To download the form, or view instructions for completing a VIR, please visit: <http://das.nebraska.gov/materiel/VendorPerformance.html>.

C. Vendor Rating & Reviews

Periodically, State teammates identified as the *Originator* and/or *Buyer* on purchase orders entered into EnterpriseOne may receive a request via e-mail from our third-party partner, *Procurated*, asking for a rating/review for a vendor on a recent purchase. If a teammate receives a review request but they are not the correct person to review, they should forward the request to the appropriate person.

Participation in the online rating and review platform is encouraged as the ratings may be used by agencies to evaluate past performance in future bid opportunities for services. Ratings are also monitored to identify opportunities to improve vendor performance across the State. **When submitting a review, agencies should provide information that is entirely factual.** The Materiel Division may contact users to confirm accuracy of statements. Access may be removed for users that submit reviews found to contain false or misleading statements.

IV. NON-PERFORMANCE RESOLUTION PROCESS

1. Should the vendor fail to provide commodities/services that meet the specifications of the contract, the using agency may document this failure by using the **Vendor Performance Notice** template to send an official notice of non-performance to the vendor. **⚠** Agencies should first review the contract to assure that the contract includes the requirement(s) the vendor is believed to have failed to perform. The vendor should not be expected to perform outside of the contract scope.
 - a. If the contract is owned AND maintained by the using agency, the **VPN** should be reviewed by the using agency's legal counsel, and approved solely at the agency level prior to sending to the vendor.
 - b. **If the contract is owned & maintained by the SPB, the **VPN** (and referenced Contract/PO) should be reviewed by the Agency's legal counsel, approved at the agency level, then sent to DAS Materiel/SPB for approval at: AS.MaterielPurchasing@nebraska.gov.** Upon approval notification, the agency contact may proceed to send to the Vendor.
2. Vendors must complete the "*Vendor Acknowledgement*" section of the **VPN** and return the document to the sender. Agencies must send a copy of the **VPN**, referenced document(s), supporting documentation, and the vendor's response to the State Purchasing Bureau.
3. For unresolved VPNs or significant matters of public safety the agency may, at their discretion, submit a **Vendor Improvement Request** to the State Purchasing Bureau.
 - a. All **VIRs**, regardless of contract owner, should be reviewed by the using agency's legal counsel, approved at the agency level, then sent to DAS Materiel/SPB at: AS.MaterielPurchasing@nebraska.gov.
4. Upon DAS Materiel/SPB approval, the Vendor Performance Program Manager will contact the vendor via e-mail to provide a basis for the dispute providing instructions for next steps, specifying a reasonable due date for the vendor to respond.
5. By the due date set forth in the communication from the Vendor Performance Program Manager, the vendor must submit a written response via e-mail with a corrective action plan describing the steps they will take to resolve the dispute. At times, the issue may be complex and require a meeting with the using agency and Vendor to discuss the dispute(s) documented in the **VIR**.
6. Once received, the Vendor Performance Program Manager or SPB Procurement Officer will review the vendor's response with the using agency. If the vendor provides a solution that is acceptable to the using agency, they will be given a reasonable due date to complete the corrective action plan.
 - a. If the vendor fails to provide a reasonable solution that is acceptable to the State, this is considered a failure on the part of the vendor to correct the dispute, which may become the basis for canceling the contract.

Copies of all Vendor Performance Notices, Vendor Improvement Requests, Vendor responses, and accompanying documentation submitted to the State Purchasing Bureau will be kept on file with the Vendor Performance Program.