



## Ohio Revised Code

### Section 5513.05 Article failing to conform to specifications and conditions prescribed by director.

Effective: March 13, 1997

Legislation: Senate Bill 287 - 121st General Assembly

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(A) If any article furnished by a vendor in the performance of a contract or purchase order fails to conform to the specifications and conditions prescribed by the director of transportation or to any sample of the article submitted by the vendor, the director may reject the article. Without additional expense to the department of transportation, the vendor shall reclaim and remove any rejected article that has been delivered and immediately shall replace all rejected articles with articles that conform to the specifications and conditions or samples. Notwithstanding sections 5513.01 and 5513.02 of the Revised Code, if the vendor does not immediately replace the rejected articles with conforming articles, the director may cancel the contract or purchase order and purchase the article without using a notice and bidding procedure. In an emergency situation as determined by the director, the director immediately may purchase any necessary replacement article. The director may deduct from any moneys due or that may thereafter become due to the vendor who provided the rejected article the difference between the price named in the canceled contract or purchase order with the vendor and the actual cost of the article purchased by the department in substitution for that due from the vendor.

(B) Notwithstanding sections 5513.01 and 5513.02 of the Revised Code, if a vendor fails to make prompt delivery of any article, and the delivery is delayed by circumstances other than fire, strike, freight embargo, or an act of God or a government, the director may cancel the contract or purchase order and purchase the article without using a notice and bidding procedure. The director may deduct from any moneys due or that may thereafter become due to the vendor who failed to promptly deliver the article the difference between the price named in the canceled contract or purchase order with the vendor and the actual cost of the article purchased by the department in substitution for that due from the vendor.

(C) The department may recover from a vendor who fails to promptly provide conforming articles any incidental or consequential damages as defined in section 1302.89 of the Revised Code incurred by the department in promptly obtaining the conforming articles.



AUTHENTICATED,  
OHIO LEGISLATIVE SERVICE  
COMMISSION  
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(D) The rights and remedies established in this section are not exclusive and are in addition to any other available rights and remedies.