

**ARKANSAS DEPARTMENT OF HUMAN SERVICES**  
**PERFORMANCE BASED CONTRACTING**

Pursuant to Ark. Code Ann. 19-11-1010 et. seq., the selected contractor shall comply with performance based standards. Following are the performance based standards that will be a part of the contract and with which the contractor must comply for acceptable performance to occur under the contract.

- I. The contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the contractor or to the contractor's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
  
- II. Except as otherwise required by law, the contractor agrees to hold the contracting Division/Office harmless and to indemnify the contracting Division/Office for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the contracting Division/Office may sustain as a result of the contractor's performance or lack of performance.
  
- III. During the term of the contract, the division/office will complete sufficient performance evaluation(s) to determine if the contractor's performance is acceptable.
  
- IV. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the vendor so as to establish standards that are reasonably achievable
  
- V. The contract program deliverables and performance indicators to be performed by the contractor are:

Service Criteria <sup>i</sup>	Acceptable Performance	Damages for Insufficient Performance <sup>ii</sup>
<p><b>A. Mowing and Edging</b></p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the contract term.</p> <p>Grass height shall be cut to approximately four (4) inches, four (4) times per month during the growing season. Two (2) times per month or as needed during the off season.</p> <p>Grass clippings shall be mulched or bagged and removed. After each mowing, the contractor will edge, weed eat and blow off the sidewalks, walkways, breeze way areas and curbs.</p>	<ol style="list-style-type: none"> <li>1. A Corrective Action Plan, acceptable to the Arkansas Department of Human Services (DHS), will be due to DHS within ten (10) business days of the request.</li> <li>2. A twenty-five percent (25%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The twenty-five percent (25%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</li> <li>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</li> </ol>
<p><b>B. Pruning</b></p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the contract term.</p> <p>Shrubs and trees shall be pruned two (2) times a year during the months of February and March.</p> <p>Shrubs trimmed as needed, as determined by the Booneville Human Development Center (BHDC).</p> <p>Trees pruned as needed. All</p>	<ol style="list-style-type: none"> <li>1. A Corrective Action Plan, acceptable to DHS, will be due to DHS within ten (10) business days of the request.</li> <li>2. A ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the</li> </ol>

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	debris removed and hauled off.	<p>deficiency took place.</p> <p>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</p>
<b>C. Seeding</b>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the contract term.</p> <p>Bermuda Seeding must done Bi-Annual in the months of March and October.</p>	<p>1. A Corrective Action Plan, acceptable to DHS, will be due to DHS within ten (10) business days of the request.</p> <p>2. A ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</p>
<b>D. Mulching</b>	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the	<p>1. A Corrective Action Plan, acceptable to DHS, will be due to DHS within ten (10) business days of the request.</p>

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	<p>contract. term.</p> <p>Two (2) times per year in the months of February and October old mulch will be removed and hauled off.</p> <p>Weeds shall be removed and weed barriers applied.</p> <p>Install new hardwood mulch.</p>	<p>2. A ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</p>
<p><b>E. Weed Killer &amp; Fertilization</b></p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the contract term.</p> <p>Two (2) times per year in the months of March and April and at the end of each season, the contractor will apply weed killer and fertilizer.</p> <p>Weed killer shall be applied as needed.</p> <p>Pre-emergent (kills clovers, crab grass, etc.) treatment will be performed at the beginning of Spring season (March).</p>	<p>1. A Corrective Action Plan, acceptable to DHS, will be due to DHS within ten (10) business days of the request.</p> <p>2. A ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the</p>

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		<p>deficiency took place.</p> <p>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</p>
<p><b>F. Weed Removal</b></p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance at all times throughout the contract term.</p> <p>Remove weed from all flower/shrub beds as needed as determined by the BHDC.</p>	<p>1. A Corrective Action Plan, acceptable to DHS, will be due to DHS within ten (10) business days of the request.</p> <p>2. A ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3. DHS reserves the right to impose additional penalties including without limitation withholding payment on future invoices until Vendor is in full compliance and maintaining a below standard Vendor Performance Report (VPR) in the Vendor file, and may opt for contract termination.</p>

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Failure to meet the minimum Performance Standards as specified **may** result in the assessment of damages.

In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to, or cure to the satisfaction of the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services of it is in the best interest of the State. In these instances, the State **shall** have final determination of the performance acceptability.

Should any compensation be owed to the agency due to the assessment of damages, vendor **shall** follow the direction of the agency regarding the required compensation process.

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<sup>i</sup> Nothing in this table is intended to set forth all obligations of the Contractor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

<sup>ii</sup> The damages set forth are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.