

**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>The Broker <b>shall</b> provide NET transportation to all eligible beneficiaries as required under the terms of the NET IFB 710-18-1025, hereinafter IFB.</p>	<ol style="list-style-type: none"> <li>1. Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</li> <li>2. Broker <b>shall</b> establish and operate efficient reservation system as required by the IFB.</li> <li>3. Broker <b>shall</b> provide timely transportation as specified by the IFB.</li> <li>4. Broker <b>shall</b> provide transportation to and from Medicaid covered services as required in the IFB.</li> <li>5. The Broker <b>shall</b> provide appropriate transportation as required by the IFB. Appropriate transportation includes necessary beneficiary accommodations as described by the IFB.</li> </ol>	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. Broker's continued failure to meet all service criteria and standards for acceptable performance may result in payment being withheld or reduced by five hundred dollars (\$500) per occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</li> </ol>
<p>The Broker and all of its employees, agents, and all Subcontractors and Subcontractors' employees and agents <b>shall</b> immediately make a report to the Child Abuse Hotline or the Adult and Long-Term Care Facility Maltreatment Hotline as required under the terms of the IFB.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<ol style="list-style-type: none"> <li>1. Failure by the Broker and all of its employees, agents, and all Subcontractors and Subcontractors' employees and agents to make and immediate report to the hotline(s) as required under the terms of the IFB may constitute</li> </ol>

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		<p>grounds for immediate contract termination at the sole discretion of DHS.</p> <p>2. In addition to immediate grounds for termination, Broker is subject to ten thousand dollars (\$10,000.00) in damages per each occurrence.</p> <p>3. These remedies do not bar any other remedies available through Arkansas State law, including criminal and civil penalties.</p>
<p>The Broker shall ensure that all NET drivers and attendants meet the requirement specified in the IFB.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<p>1. The Broker's failure to ensure that the NET drivers and attendants meet criminal background, child maltreatment, and adult maltreatment requirements is subject to ten thousand dollars (\$10,000.00) in damages per each occurrence.</p> <p>2. Failure to meet all other driver related requirements is subject to ten thousand dollars (\$10,000.00) in damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>

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<p>The Broker shall ensure that all vehicles used for NET transportation meet the requirements specified in the IFB.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<ol style="list-style-type: none"> <li>1. Contractor will be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. The Broker's continued failure to ensure that vehicles used for NET transportation comply with the requirements specified by the IFB is subject to one thousand dollars (\$1,000.00) in damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</li> </ol>
<p>The Broker shall ensure the vehicles used for NET transportation are operated in accordance with the requirements specified in the IFB.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. Failure to ensure that vehicles used for NET transportation are operated in accordance with the requirements specified by the IFB is subject to one thousand dollars (\$1,000.00) in</li> </ol>

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		<p>damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>
<p>The Broker <b>shall</b> ensure that driver and attendant follow all requirements specified in the IFB with regard to delivery of proper care to NET beneficiaries during transport.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<p>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</p> <p>2. The Broker's continued failure to ensure that the driver and attendant follow all requirements specified in the IFB with regard to delivery of the proper care to NET beneficiaries during transport is subject to one thousand dollars (\$1,000.00) in damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>
<p>The Broker <b>shall</b> verify all components of Medicaid eligibility for the NET</p>	<p>Acceptable performance is defined as one hundred</p>	<p>1. Contractor may be required to submit and</p>

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transportation as required in the IFB.	percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<p>implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</p> <p>2. The Broker's failure to verify eligibility is subject to the following damages: Failure to verify Medicaid eligibility is subject to five hundred dollars (\$500.00) damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>
The Broker <b>shall</b> verify all components of residence eligibility for the NET transportation as required in the IFB.	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<p>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</p> <p>2. The Broker's failure to verify eligibility is subject to the following damages: Failure to verify residence eligibility is subject to five hundred dollars (\$500.00) damages per each occurrence.</p> <p>3. DHS reserves the right to</p>

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		impose additional penalties including without limitation, withholding payment on future invoices until Vendor is in full compliance, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.
The Broker <b>shall</b> verify all components of the eligibility based on beneficiary's need for the NET transportation as specified in the IFB.	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. The Broker's failure to verify eligibility is subject to the following damages: Failure to verify need for transportation is subject to one thousand dollars (\$1,000.00) damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</li> </ol>
The Broker <b>shall</b> verify destination eligibility for the NET transportation as required in the IFB.	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory</li> </ol>

Service Criteria <sup>i</sup>	Acceptable Performance	Damages for Insufficient Performance <sup>ii</sup>
	<p>determined by the Arkansas Department of Human Services (DHS).</p>	<p>implementation of the plan.</p> <p>2. The Brokers failure to verify eligibility is subject to the following damages: Failure to verify destination eligibility is subject to five hundred dollars (\$500.00) in damages per each occurrence.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>
<p>The Broker <b>shall</b> verify the <del>time of the appointment-pick-up time</del> for the NET transportation as required in the IFB.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p>	<p>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</p> <p>2. The Brokers failure to verify eligibility is subject to the following damages: Failure to verify destination eligibility is subject to five hundred dollars (\$500.00) in damages per each occurrence.</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, a below</p>



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		standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.
The Broker <b>shall</b> submit all reports on time as required in the IFB.	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. Failure to submit timely reports as required by the IFB is subject to five hundred dollars (\$500.00) damages per each occurrence and one hundred dollars (\$100.00) per each day of non-compliance.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</li> </ol>
The Broker <b>shall</b> maintain all information and records as required in the IFB.	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. Failure to maintain all information and records</li> </ol>

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		<p>as required by the IFB is subject to five hundred dollars (\$500.00) in damages per each occurrence and one hundred dollars (\$100.00) per each day of non-compliance.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</p>
<p>Broker <b>shall</b> ensure an efficient transition of Broker's responsibilities to an incoming Broker at the time of the Broker's contract cancellation, termination, suspension, subrogation, assignment, or expiration.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).</p> <p>The Broker <b>must</b> provide the incoming Broker with complete beneficiary data that was used by the Broker during the last six (6) months of the operation.</p> <p>The Broker <b>must</b> provide the incoming Broker with complete provider agreements that were used by the Broker during the last six (6) months of the operation.</p> <p>The Broker <b>must</b> provide the incoming Broker with complete historical trip information collected by the Broker during the last</p>	<p>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</p> <p>2. Failure to provide complete historical trip information is subject to twenty thousand dollars (\$20,000.00) damages per each occurrence and one thousand dollars (\$1,000.00) for each day of non-compliance. The maximum damage is fifty thousand dollars (\$50,000.00).</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, a below standard Vendor Performance Report</p>

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	six (6) months of the operation.	(VPR) maintained in Vendor's file, and contract termination.
The Broker <b>shall</b> comply with all other program requirements specified in the IFB but not specifically mentioned in the above deliverables	Acceptable performance is defined as one hundred percent (100%) compliance with all services criteria and standards for acceptable performance throughout the contract term as determined by the Arkansas Department of Human Services (DHS).	<ol style="list-style-type: none"> <li>1. Contractor may be required to submit and implement a corrective action plan acceptable to DMS within ten (10) business days of request. Payment may be delayed pending satisfactory implementation of the plan.</li> <li>2. Continued failure to meet all other program requirements not specifically mentioned in the Deliverables A, B, C, D, and E is subject to five thousand dollars (\$500.00) damages per each occurrence, and One hundred dollars (\$100.00) per each day of non- compliance.</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, a below standard Vendor Performance Report (VPR) maintained in Vendor's file, and contract termination.</li> </ol>
<p><b>Conflict of Interest Mitigation</b></p> <p>During the term of this contract, the Vendor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. The Vendor shall disclose all actual, apparent, or potential conflicts of interest to the Department of Human Services (DHS) within five (5) days of having knowledge of them. The Vendor shall develop a mitigation plan as requested by DHS which must be approved and accepted by DHS. Any changes to the approved mitigation plan must be approved in advance by DHS.</p>	The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.	The Vendor will be fined five thousand dollars (\$5,000) per day for each day past five (5) days for each actual, apparent, or potential conflict of interest it fails to disclose. The Vendor shall be fined one hundred thousand dollars (\$100,000) for the first failure to comply with the mitigation plan developed by the Vendor and approved by DHS. Each subsequent violation of

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		the mitigation plan shall be twice the amount of the immediately preceding violation fine.
<p><b>Transition Planning</b> Ninety (90) days prior to the contract end date, the vendor shall submit to DHS a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.</p> <p>The transition plan shall include provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) days prior to the contract end date. All proprietary data collected and/or created during the final thirty (30) days of the contract, or any proprietary data not captured in the initial delivery, shall be delivered to DHS no more than fifteen (15) days following the contract end date.</p>	The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.	If the Vendor fails to meet the acceptable performance standard, DHS may issue a below standard Vendor Performance Report (VPR) maintained in the vendor file. Final payment may be withheld from the vendor until the all elements of the transition are satisfied as determined by DHS.

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.