

**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 Contractor 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>1. Non-custodial Community Based Services to Support Diversion and FINS</b></p> <p>The Contractor shall provide the following core services:</p> <ul style="list-style-type: none"> <li>• Case Management;</li> <li>• Cognitive Behavioral Treatment (CBT) groups;</li> <li>• Independent Living Skills;</li> <li>• Parenting classes for juveniles if they are parents and the juvenile's parents or guardians;</li> <li>• Contractor's participation and attendance in any scheduled court appearances, as requested by the courts or DYS;</li> <li>• Mentoring; and</li> <li>• Vocational Services and Career Supports</li> </ul> <p>A. Case Management shall include direct or indirect intervention provided by a bachelor's degree-level or higher staff and:</p> <ol style="list-style-type: none"> <li>1. Identify problems, needs, progress, or status of the juvenile or family member, and</li> <li>2. Assist the juvenile in accessing or benefiting from services.</li> </ol> <p>B. The Contractor shall utilize the SAVRY if one has been completed ninety (90) days prior to service delivery. If a SAVRY has not been administered in the last ninety (90) days, the Contractor shall complete a validated risk and needs assessment to develop individualized needs assessment of each juvenile referred by DYS and admitted into the Contractor's program.</p> <p>C. Cognitive Behavioral Treatment Groups (CBT) shall be based on a curriculum that incorporates principles of risk, need, and responsivity.</p> <p>D. Independent Living Skills (ILS) shall be provided for all juveniles referred by DYS and admitted to the</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2<sup>nd</sup> incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>

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<p>Contractor's program and shall include, at a minimum, the following components:</p> <ol style="list-style-type: none"> <li>1. Money management;</li> <li>2. Food preparation;</li> <li>3. Nutrition;</li> <li>4. Health; and</li> <li>5. Housekeeping.</li> </ol> <p>E. Parenting classes shall be provided to all parents/legal guardians and all juveniles who have children.</p> <p>F. Contractor shall complete, upon request, any court-related or required paperwork and attend, and fully participate, in court appearances related to non-custodial youth referred for diversion or FINS at the request of either the juvenile court or DYS, with or without a subpoena.</p> <p>G. Contractor shall provide mentoring.</p> <p>H. Contractor shall provide all necessary services in a community-based setting.</p>		
<p><b>2. Optional Non-custodial Community Based Services to Support Diversion and FINS</b></p> <p>A. Contractor shall propose a list of optional services to the local juvenile courts.</p> <p>B. If the local judge(s) decline any or all optional services for the term of the contract, the Contractor shall submit a letter developed in conjunction with and attested to by the local juvenile judge(s) in the Contractor's region. The letter shall be submitted within thirty (30) calendar days of the contract start date.</p> <p>C. Optional services are to be entered into JJIS in the form and manner prescribed by DYS in the RFQ. Data shall be entered by the 10<sup>th</sup> of the following month.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2<sup>nd</sup> incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3<sup>rd</sup> incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>

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		<p>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>
<p><b>3. Billing</b></p> <p>A. All billing shall be submitted by the 10<sup>th</sup> of the following month that services were provided.</p> <p>B. Billing shall be submitted via JJIS in the form and manner specified by DYS.</p> <p>C. All encounter data (mandatory core services or optional services) shall be documented in the juvenile's case file and JJIS. The documentation shall include a brief description of services, start and end times listed, units of time and frequency of service documented, and be signed by the service provider, dated, and entered in JJIS in the manner and form required by DYS.</p> <p>1. Core Services to be entered into JJIS are as follows:</p> <ol style="list-style-type: none"> <li>a. Case Management;</li> <li>b. Behavior Modification Groups;</li> <li>c. Independent Living Skills;</li> <li>d. Parenting classes;</li> <li>e. Case Coordination Staffings attended;</li> <li>f. Court appearances attended;</li> <li>g. Mentoring;</li> <li>h. Transportation;</li> <li>i. Ad hoc services ordered by the court and pre-approved by DYS; and</li> <li>j. Comprehensive Educational Supports.</li> </ol> <p>2. Optional services shall be entered into JJIS.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p> <p>One hundred percent (100%) of assessed youth shall receive services tailored to each youth's strengths and needs.</p> <p><b>Expected Outcomes:</b> Each juvenile receives continuity of programs and services within timeframes outlined in the service plan.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2<sup>nd</sup> incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>

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<p><b>4. Post-Residential Re-entry Services</b></p> <p>A. Contractor shall interact with the DYS Treatment Team to serve adjudicated youth who are preparing for and have completed either short-term custodial placement residential or group home placements provided by DYS requiring the planning and delivery of re-entry services.</p> <p>B. Field Evaluations shall be completed and submitted via JJIS within seven (7) calendar days of the date of commitment to DYS custody.</p> <p>C. Contractor shall interact with the DYS Treatment Team to serve adjudicated juveniles who are preparing for and have completed residential or group home placements provided by DYS, which requires the planning and delivery of mandatory care set of community-based re-entry services.</p> <ol style="list-style-type: none"> <li>1. Contractor shall attend and fully participate in DYS Treatment Team staffings while the juvenile is in DYS residential or group home placements and during the re-entry phase of treatment.</li> <li>2. Contractor shall work with the DYS Treatment Team to create a collaborative re-entry plan.</li> <li>3. Contractor shall provide all necessary services in a community-based setting.</li> <li>4. Contractor shall begin providing all services identified in the juvenile's re-entry plan no later than seven (7) calendar days of the juvenile's discharge from the residential or group home placements provided by DYS.</li> </ol>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2nd incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>

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<p>D. All re-entry services provided by the Contractor (mandatory core services or optional services) shall be documented in the juvenile's case file. The documentation shall include a brief description of services, start and end times listed, units of time documented, and be signed by the service provider, dated, and entered in JJIS in the manner and form required by DYS.</p> <p>E. The Contractor shall provide the following core services to all juveniles referred by DYS and admitted to the Contractor's program:</p> <ol style="list-style-type: none"> <li>1. Case management, which shall include at a minimum: <ol style="list-style-type: none"> <li>a. Direct or indirect intervention by a bachelor's degree or higher staff to identify problems, needs, progress, or status of the juvenile or family in accessing or benefiting from services identified in the re-entry plan.</li> <li>b. Monitoring, ensuring compliance with re-entry plan, and reporting monthly on each juvenile's progress toward meeting the goals identified in the agreed upon re-entry plan.</li> </ol> </li> <li>2. Behavior Modification Groups, which shall provide cognitive behavioral treatment (CBT) groups based on curriculum that incorporates principles of risk, need, and responsivity. Behavior Modification Groups shall be provided at a minimum of one (1) time for sixty minutes (60) every other week.</li> <li>3. Independent Living Skills (ILS) programs, which shall be provided at a minimum of one (1) time for sixty minutes every other week. The ILS must include, at a minimum, the following components:</li> </ol>		

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<p>a. Money management;  b. Food preparation;  c. Nutrition;  d. Health; and  e. Housekeeping.</p> <p>4. Parenting classes for juveniles if they are parents and the juvenile's parents or guardians, which shall be delivered a minimum of one (1) time every other week for sixty (60) minutes each time.</p> <p>5. Attendance and full participation in case coordination staffings when scheduled by DYS;</p> <p>6. Completion, upon request, of any court-related or required paperwork, and full participation in court appearances at the request of either the juvenile court or DYS, with or without a subpoena;</p> <p>7. Mentoring, which shall be provided at a minimum of four (4) hours per month;</p> <p>8. Transportation;</p> <p>9. Ad hoc services, which shall be provided as ordered by the juvenile court and pre-approved by the DYS Treatment Team Assistant Director.</p> <p>F. Contractor shall allow for visits with the juvenile by the Provider-led Arkansas Shared Savings Entity (PASSE) care coordinator, independent assessors, child welfare caseworkers, and other entities as approved by the provider to ensure implementation of physical and mental health services as prescribed by treatment plan. Documentation of any such visits shall be maintained in the juvenile's individual case file for review by DYS.</p> <p>G. Vocational services and career support shall be provided.</p>		

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<ol style="list-style-type: none"> <li>1. Contractor shall employ a dedicated Job and Career Coach to provide job readiness training.</li> <li>2. The Job and Career Coach shall have no other duties outside of this position.</li> <li>3. Dedicated vocational staff shall coordinate with Job Corps and the Arkansas Department of Workforce Services (ADWS) in connecting juveniles transitioning to the labor market to appropriate vocational services and career supports, including employment opportunities.</li> <li>4. Dedicated vocational staff shall coordinate with vocational and technical departments to provide opportunities for juveniles who qualify.</li> <li>5. Dedicated vocational staff shall assist juveniles in enrollment and actively support attainment of trade license or certifications, and subsequent job or apprenticeship placement.</li> <li>6. All services shall be documented in the juvenile's individual case file outlining the services provided, dates, times, units, and signed by the dedicated vocational staff. This information shall be entered into JJIS in the form and manner specified by DYS.</li> </ol>		
<p><b>5. Administration</b></p> <p>A. The Contractor shall provide a copy of all their policies and procedures, including a listing of all services they provide to youth, to DYS within thirty (30) days of signing their contract.</p> <p>B. Training shall be conducted for new hires; then additional training shall be provided as necessary, but at a minimum annually. All training shall</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p> <p>Contractor must conduct monthly inspections and reviews to ensure compliance with CARF or COA standards</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2nd incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p>



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<p>be documented in the individual employee's file.</p> <p>C. <u>Auditing:</u></p> <ol style="list-style-type: none"> <li>1. The Contractor shall be subject to an audit of overall operations the Arkansas Department of Health and the Arkansas Department of Corrections pursuant to Arkansas Code Annotated §§9-28-301 and 9-28-302. In addition to the above audits, Contractor shall be subject to audit by DHS and the Arkansas Legislature. Contractor shall cooperate fully with all auditing entities. The Contractor shall submit a budget to DYS and the Arkansas Legislative Council and go through the budget procedures process in the same manner as State Departments, agencies, institutions, boards, and commissions. Budgets shall be submitted based on operating revenues and expenses of each Contractor, and each Contractor shall provide information related to financial status required by the Legislative Council and/or Joint Budget Committee.</li> <li>2. The Contractor shall cooperate fully with on-site monitoring by DYS/DHS and DHS contracted vendors to evaluate Contractor compliance with this contract, DYS policies, procedures and administrative directives; monitoring of random samples of juvenile records for appropriate documentation of services; and to correct any deficiencies identified.</li> <li>3. Contractor shall provide required reports to DYS within DYS-specified time frames and develop and implement DYS approved corrective action plans when notified by DYS of deficiencies in program compliance.</li> </ol>	<p>one hundred percent (100%) of the time throughout the contract term. Copies of the monthly inspection report shall be sent to DYS by the 10<sup>th</sup> of the preceding month.</p>	<p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>

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<p>D. Contractor shall maintain accreditation by the Council on Accreditation (COA) or Commission on Accreditation of Rehabilitative Facilities (CARF).</p> <p>E. The Contractor shall provide the following reports without limitation on juveniles and families designated by DYS and admitted into the Contractor's program, to DYS and DHS according to the routing, timeframes, and contents specified as follows:</p> <ol style="list-style-type: none"> <li>1. <u>Annual Office of Payment Integrity and Audit (OPIA) Report:</u> A report detailing an independent fiscal audit of the program must be submitted to the DHS Office of Payment Integrity and Audit within one hundred twenty (120) calendar days following the end of each contract period. The fiscal audit must be certified by a Certified Public Accountant in accordance with generally accepted accounting principles.</li> <li>2. <u>Quarterly Report:</u> The Contractor shall meet quarterly with each of its subcontractors to review contract performance and compliance with the applicable performance indicators. A report, detailing the outcome of the review and certifying that the Contractor has provided the mandatory core services in the units mandated by DYS and by the appropriately licensed providers, shall be due to DYS within ten (10) calendar days of the end of each quarter.</li> <li>3. <u>Annual DYS Report:</u> A report that summarizes services provided to DYS youth and the content of the quarterly reports and includes</li> </ol>		

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<p>measurable results of the contract performance indicators shall be submitted within thirty (30) calendar days following the end of each contract period to the DYS Assistant Director for Community Services.</p> <p>4. <u>Temporary Assistance for Needy Families (TANF) funds:</u> The Contractor shall submit a report certifying the proper use of TANF funds quarterly to the DYS Director, or designee, within ten (10) calendar days of the end of each quarter.</p>		
<p><b>6. Interstate Compact on Juveniles</b> Contractor shall meet the terms and conditions of the Interstate Compact on Juveniles (ICJ) which provides for home evaluations and supervision of delinquent juveniles on aftercare status who are placed in Arkansas through the ICJ. Allowable components shall include initial evaluation, supervision, follow-up reports, and discharge.</p>	<p><b>Expected Outcomes:</b> Seventy five percent (75%) of youth on aftercare through the ICJ shall remain free of any new adjudication during supervision.</p> <p>Seventy five percent (75%) of youth on aftercare through ICJ shall successfully complete ICJ supervision by being released from ICJ.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2<sup>nd</sup> incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor 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>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and terminating the contract.</p>

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<p><b>7. Conflict of Interest Mitigation</b>            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>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>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 the mitigation plan shall be twice the amount of the immediately preceding violation fine.</p>
<p><b>8. Incident Reporting</b></p> <p>A. The Contractor shall adhere to reporting requirements and time frames specified in DYS Policy (which includes notification to the Child Abuse Hotline where applicable) and any subsequent amendments to these policies, procedures, or guidelines. DYS will notify appropriate officials of the Arkansas Department of Human Services (DHS) of incidents where applicable.</p> <p>B. Contractor shall document the notification in the juvenile's individual case file.</p> <p>C. Contractor shall complete incident documentation in JJIS within eight (8) hours of incident.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>1st incident: A Letter of Concern will be sent addressing the non-compliance.</p> <p>2nd incident: A Correction Action Plan (CAP) acceptable to DYS shall be due to DYS within ten (10) business days of the request.</p> <p>3rd incident: A ten percent (10%) penalty will be assessed in the following months' payment to DYS for each thirty-day period the contractor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty for the identified month in which the deficiency took place.</p> <p>4th incident: DYS reserves the right to impose additional penalties including without limitation, withholding payment of future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file, and contract termination.</p>

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<p><b>9. Mandated Reporting</b>  Pursuant to Ark. Code Ann. §12-18-402 (b)(10) and Ark. Code Ann. §§ 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor’s employees and agents shall immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if Contractor or any of its employees, agents, or Subcontractors’ employees and agents, while performing duties under this contract, have reasonable cause to suspect that:</p> <ol style="list-style-type: none"> <li>1. A child has been subjected to child maltreatment;</li> <li>2. A child died as a result of child maltreatment;</li> <li>3. A child died suddenly and unexpectedly; or</li> <li>4. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</li> </ol> <p style="padding-left: 20px;">or</p> <ol style="list-style-type: none"> <li>5. An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.</li> </ol> <p>A privilege or contract shall not prevent a person from reporting maltreatment when he or she is a mandated reporter and required to report under this section.</p> <p>An employer or supervisor of a mandated reporter shall not prohibit an employee or a volunteer from directly reporting maltreatment to the Hotline.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and acceptable performance standards at all times throughout the contracted term as determined by DYS.</p>	<p>For each failure to report, DHS may impose:</p> <ol style="list-style-type: none"> <li>1. A ten percent (10%) penalty, assessed in the following months’ payment for each failure to report. The penalty will be calculated from the total payment for the identified month in which the deficiency took place; or</li> <li>2. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount for the contract, as determined by DHS. DHS may elect to calculate penalties/damages differently per occurrence.</li> </ol> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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<p>An employer or supervisor of a mandated reporter shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting maltreatment to the Hotline.</p> <p>Pursuant to Act 531 of 2019, Ark. Code Ann. §12-18-402 (b)(10) and Ark. Code Ann. §§ 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor's employees and agents are mandated reporters.</p>		
<p><b>10. 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, <b>shall</b> be delivered to DHS no more than fifteen (15) days following the contract end date.</p>	<p>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>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.</p>
<p><b>11. Arkansas Freedom of Information Act</b> (Ark. Code Ann. §25-19-101 et seq.):</p> <ol style="list-style-type: none"> <li>1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfill an Arkansas Freedom of Information Act (FOIA) request.</li> </ol>	<p>Contractor shall respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p> <p>Contractor shall provide information and documents to DHS upon request in the timeframe</p>	<ol style="list-style-type: none"> <li>1. For each failure to meet performance standard, DHS may impose: <ol style="list-style-type: none"> <li>a. A ten percent (10%) penalty, assessed in the following months' payment for each failure to report. The penalty will be</li> </ol> </li> </ol>

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<p>2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</p> <p>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A). Contractor shall timely and accurately respond to FOIA requests made directly to Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements.</p>	<p>specified in the request one hundred percent (100%) of the time. DHS shall have sole determination as to the sufficiency of Contractor's response and provision of documents.</p>	<p>calculated from the total payment for the identified month in which the deficiency took place; or</p> <p>b. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount for the contract, as determined by DHS. DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>In addition to the above, Contractor shall be responsible for any penalties, fees, and costs imposed on DHS associated with vendor's failure to timely and accurately provide the requested information and documents.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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 Contractor 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 Contractor 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, Contractor **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.