

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:

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<p>A. Contractor shall furnish all labor, supplies, materials, equipment, and incidentals necessary to provide environmental and janitorial services for the following seven (7) buildings:</p> <ul style="list-style-type: none"> • ASH Main Hospital Building: 148,000 square feet • Building 3 (3-Upper & 3 Lower): 24,474 square feet • Building 4 (4-Upper & 4 Lower): 24,474 square feet • Forensic Treatment & Activity Building (5-Upper, 5-Lower, 6-Upper, 6-Lower): 62,320 square feet • Division Administration Building: 15,725 square feet • Probate Court Building: 5,064 square feet • Maintenance Building: 8,600 square feet 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on 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. Supplies</p> <ol style="list-style-type: none"> 1. Contractor shall provide cleaning supplies, materials, and equipment needed to ensure satisfactory performance of this contract. 2. Contractor shall be responsible for receiving, handling, storage, and delivery of sanitizing and cleaning products or chemicals. <ol style="list-style-type: none"> a. Supplies, materials, and equipment needed shall include but not be the items listed in IFB Section 2.4B. b. Contractor shall provide all necessary equipment, cleaning supplies and chemicals to eliminate infectious virus(es), microorganisms and odors in 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all</p>

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<p>specified areas as determined by ASH Infection Control Committee. These supplies include, but are not limited to:</p> <ul style="list-style-type: none"> • ASH Infection Control-approved germicide (e.g., Virex-256) • personal protection equipment (PPE) <p>NOTE: Bleach shall not be permitted in the facility or in any products used in the facility.</p> <p>3. Restroom supplies, including tissue paper, hand towels, liquid soap, soap dispensers, hand sanitizer and receptacle liners, will be furnished by ASH Warehouse.</p> <p>4. All products used must be Green Cleaning Certified.</p> <p>5. A list of all chemicals and cleaning agents to be used must be submitted to and approved by ASH Infection Control/Safety Committees along with applicable Material Safety Data Sheets (MSDS) prior to contract start. If the approved list of chemicals/cleaning agents is to be changed for any reason, then the same approval process must be followed prior to the implementation of any change.</p> <p>6. All equipment must be maintained in a safe, clean manner and meet the National Electronic Code (NEC) and Occupational Safety and Health Administration Agency (OSHA) requirements.</p>	<p>determined by DHS.</p>	<p>requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on 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>C. Storage</p> <p>1. Contractor shall store any equipment and cleaning supplies left at ASH to service this contract in the main hospital building's designated area.</p> <p>2. The area must be sanitary, odorless, and free of health and fire hazards.</p> <p>3. All supplies/chemicals and carts must be stored per standards set forth by ASH Safety Director/committee.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified</p>

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		<p>month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on 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>D. Protection of Property</p> <ol style="list-style-type: none"> 1. Contractor shall take all precautions necessary to prevent the theft or pilferage of materials, tools, equipment, fixtures, furnishings, and any other items from the building. 2. Contractor shall also be responsible for any loss or damage to the State's property and to the property of others due to the Contractor's personnel, and shall make good, at its own expense, such loss or damage at the request of ASH. 3. Contractor's Supervisor must visually check all employees when entering and leaving the building. 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the</p>

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<p>E. Specifications for Services and Frequency</p> <ol style="list-style-type: none"> 1. Contractor shall generate a daily cleaning checklist specific to the Department and require that all employees initial and date the Department checklist once those duties have been done. 2. Contractor's staff shall meet levels of service and the weekly, daily, or as-needed schedule as outlined in the IFB Section 2.5. 3. Contractor's staff shall service the buildings and areas of the Arkansas State Hospital as outlined in the IFB Section 2.5. All work must be completed without interfering with daily hospital operations. 4. Contractor shall be monitored by Arkansas State Hospital Infection Control Committee and Arkansas State Hospital administrative personnel. Contract may be recommended for revocation by the Arkansas State Hospital Infection Control Committee if Contractor does not meet established criteria stated in this IFB. Such recommendation would be made to Arkansas State Hospital administration. 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>contract.</p> <p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on 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>F. Quality Improvement</p> <ol style="list-style-type: none"> 1. Contractor shall develop a Quality Improvement Plan. Specific performance indicators must be established and communicated to the contractor as needed with the current standard guidelines for environmental services by ASH Administration. Contractor shall be required to retrieve data on those indicators and report that data to the Performance Improvement Council. 2. Contractor shall comply with all Health Department regulations, Joint Commission 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the</p>

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<p>on Accreditation of Healthcare Organizations (JCAHO) Standards http://www.jointcommission.org/ and any universal infection control standards that are applicable to hospital environmental services departments.</p> <p>3. Contractor shall adhere to regulatory compliance issues according to the Office of Inspector General http://oig.hhs.gov.</p> <p>4. Contractor shall address training-specific incidents within twenty-four (24) hours or less.</p> <p>5. All problems identified through quality improvement findings or otherwise noted by hospital management and administration must be addressed with a written plan of corrective action by the Contractor with specific timelines for improvements.</p> <p>6. Contractor shall develop personnel policies/procedures in concert with ASH personnel policies/procedures. Contractor shall perform all administrative duties relating to Housekeeping Department employees to include maintaining time records, reports to satisfy JCAHO requirements, documentation for three-in-one party payers and other reports required by ASH Administration.</p> <p>7. Contractor shall apprise the ASH Regulatory Compliance Quality Director immediately of any breaches in services relating to safety and security of the patients, visitors and staff.</p> <p>8. Contractor shall develop, with the ASH Regulatory Compliance Quality Director, a comprehensive method of evaluating the cleanliness of the overall facilities jointly as well as the Contractor's ability to meet established standards as defined not only by the ASH Regulatory Compliance Quality Director, but also as accepted by Medicare http://www.cms.gov/ and the Joint Commission on Accreditation of Healthcare Organizations http://www.jointcommission.org/</p> <p>9. Contractor shall provide numerically valued monthly and quarterly quality reports to ASH</p>	<p>the contract term as determined by DHS.</p>	<p>Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on 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>and weekly written notice of inspections will be made by ASH to insure a high-quality standard. Written notice of unsatisfactory maintenance must be acknowledged immediately and corrected within five (5) working days. Failure to do so shall be considered a breach of contract.</p> <p>10. Contractor shall warrant that all chemicals and equipment, policies and procedures shall be acceptable to and in compliance with JCAHO http://www.jointcommission.org/, Center for Disease Control http://www.cdc.gov/ and other applicable federal, state, and local codes and regulatory agencies.</p> <p>11. Contractor's onsite manager may be asked to serve on the various committees of the campus and shall comply with all recommendations of those committees.</p>		
<p>G. Staffing Requirements</p> <p>1. <u>Management Staff</u></p> <p>a. As a minimum; a Director, Assistant Director or Supervisor shall be available for the morning, and evening shifts.</p> <p>b. Supervisors shall be on duty Monday through Friday, as well as weekends and holidays.</p> <p>c. Supervisors shall be competent in their knowledge of janitorial methods and aggressive in solving problems, and shall provide quality control.</p> <p>d. The number of full-time equivalent employees needed to fulfill the outlined housekeeping obligations shall be at the sole discretion of the Contractor.</p> <p>e. Contractor's on-site Supervisor or designee shall:</p> <ul style="list-style-type: none"> • Attend monthly scheduled Infection Control/Safety meetings, Performance Improvement Council meetings, Department Managers meetings and other meetings as determined by ASH Administration. Monthly meetings are scheduled in advance by ASH Administrative personnel at the beginning of each calendar year for the following next twelve (12) months. • Be responsible for overseeing the 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) calendar day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including withholding payment on future invoices until Vendor is in full compliance, maintaining</p>

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<p>scheduling requirements for existing pest control contracts and complete all required reports.</p> <ul style="list-style-type: none"> • Provide the hospital with a level of consistent cleanliness as required in The Joint Commission's Environment of Care Standards. http://www.jointcommission.org/ • Maintain all Environmental Services (Janitorial) records, policies, and procedures to comply with The Joint Commission, federal, state and local regulatory agencies. • Adhere to ASH Contraband policy which states that each department should have specific policies concerning securing potentially dangerous chemicals or other articles (tools or objects that could possibly be used as weapons). Contractor employees shall be responsible for securing personal articles (medications, nail files, etc.) which might be considered dangerous or potentially dangerous to patients or other staff. • Notify ASH administrative staff regarding any employee that knowingly violates ASH policies and procedures. <p>f. Contractor shall provide an organizational structure or list to outline the on-site supervisors as well as the corporate support available to ASH, identifying by name and location the district manager to whom the resident director will report.</p> <p>g. Contractor's designee shall serve as the liaison with linen vendor, order replenishment linen from ASH Materials Management, and stock and deliver to patient living areas.</p> <p>2. <u>Day Staff</u> (7:00 a.m. - 3:00 p.m. CST, Monday-Friday)</p> <ul style="list-style-type: none"> a. Contractor shall provide sufficient staff to clean 276,420 square feet and to fulfill all cleaning requirements. b. Contractor shall supervise all work under the contract with their own employees. <p>3. <u>Evening Staff</u> (3:00 p.m. - 7:00 pm CST,</p>		<p>a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract.</p>

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<p>Monday-Friday)</p> <p>a. Contractor shall provide sufficient staff to clean 210,320 square feet of areas inaccessible during the 7:00 a.m. - 3:00 p.m. CST shift, to maintain a sanitary environment, and handle emergencies.</p> <p>b. Inaccessible areas include, but are not limited to, locked down areas or areas that are restricted due to patient issues.</p> <p>4. <u>Weekends and Holiday Staff:</u></p> <p>a. Contractor shall provide sufficient staff to clean 210,320 square feet of patient living areas, nurse stations, bathrooms, laundry rooms and for emergencies.</p> <p>b. The sanitary environment required is the same as for normal weekdays.</p> <p>c. Contractor shall maintain staff on all holidays; Arkansas State Hospital does not close for holidays.</p> <p>5. Contractor shall have the use of offices, storage, and other facilities as designated by ASH.</p> <p>a. Contractor's employees shall not bring food or drink into office areas.</p> <p>b. Contractor's employees shall not use any equipment owned or leased by the State of Arkansas for any purpose other than to report a life in danger. This equipment includes, but is not limited to telephones, copiers, fax machines, and scanners.</p> <p>6. Contractor shall furnish all employees with identification containing the name(s) of the Contractor and the employee.</p> <p>7. All employees shall wear a clean, neat, and presentable Contractor-provided uniform or smock with a nametag that identifies her/him as an employee of the Contractor.</p> <p>8. With the exception of emergencies, all staff shall be on duty as specified. ASH Management shall be notified of the duration of any emergency which requires the absence of any manager/supervisor.</p> <p>9. ASH management may direct the immediate replacement of any staff that is absent.</p> <p>10. Children shall not accompany employees while they are performing required duties.</p>		

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<p>Contractor employee(s) bringing children in the building at any time during an employee scheduled work hour shall constitute sufficient reason for termination, including, but not limited to, special projects, and emergencies.</p> <p>11. Contractor shall provide, via email at the beginning of each shift, the names and phone numbers of Manager/Director, Supervisors, and employees that are on duty and their duty areas to a designated assistant Administrator/designee each normal duty day and the next duty day after weekends and holidays.</p> <p>12. Contractor shall provide resumes for the proposed Director, Assistant Director and all Supervisors. ASH Management team reserves the right to approve/disapprove proposed directors or supervisors.</p> <p>13. Employees of Arkansas State Hospital are not eligible for employment by the Contractor.</p>		
<p>H. Employment Requirements</p> <p>1. Contractor must provide, prior to contract start, to ASH Human Resources certification documents that any/all employees provided are current/negative in the following:</p> <ol style="list-style-type: none"> a. Drug screening b. Criminal Background checks <ul style="list-style-type: none"> • Performed by Arkansas State Police • Information shall not be more than seventy-two (72) hours old c. Two (2) screening checks <ul style="list-style-type: none"> • Child Maltreatment • Adult Maltreatment Registry check d. Purified protein derivative (PPD) test (tuberculosis skin test) <p>2. Contractor must track and maintain a database to report updated certification documents that any/all employees have received:</p> <ul style="list-style-type: none"> • Annual PPD test (TB skin test) • Annual flu shot • Child Maltreatment & Adult Abuse Registry every five (5) years <p>3. Obtaining these certifications above shall be at the Contractor's expense and must comply with ASH/State of Arkansas</p>		

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requirements.		
<p>I. Training</p> <ol style="list-style-type: none"> 1. All employees must be trained on use of chemicals, proper cleaning procedures, hazardous waste disposal, hospital policies, and all other areas deemed necessary by ASH monitoring entities. 2. Prior to beginning work at ASH, all employees shall attend Arkansas State Hospital initial orientation. 3. Employees must also attend ASH's annual mandatory training, which includes but is not limited to: <ul style="list-style-type: none"> • infection control • fire/safety • confidentiality • professional conduct Environmental Services (housekeeping) will schedule this training through ASH Staff Development. 4. All employees shall be governed by ASH and departmental policies and procedures. 5. Records of employees must be available to ASH Administration at any time and must include the following documentation: <ul style="list-style-type: none"> • Passed Criminal Background check • Passed Adult/Child Abuse registry • Approved PPD (TB) test • Negative Drug Screen results • Record of attendance at new employee orientation/annual training 		
<p>J. Mandated Reporting</p> 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: <ol style="list-style-type: none"> a. A child has been subjected to child maltreatment; b. A child died as a result of child maltreatment; c. A child died suddenly and unexpectedly; or d. Observe a child being subjected to conditions or circumstances that would reasonably result in 	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.	For each failure to report, DHS may impose: <ol style="list-style-type: none"> 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 2. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be

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<p>child maltreatment. or e. 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.</p> <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>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>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 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>
<p>K. Conflict of Interest Mitigation 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>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>The Vendor will be fined one thousand dollars (\$1,000) 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 ten thousand dollars (\$10,000) 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>L. Transition Planning 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</p>	<p>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the</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</p>

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<p>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>	<p>contract.</p>	<p>withheld from the vendor until the all elements of the transition are satisfied as determined by DHS.</p>
<p>M. Arkansas Freedom of Information Act (Ark. Code Ann. §25-19-101 et seq.):</p> <ol style="list-style-type: none"> 1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request. 2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS. 3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A). <p>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>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 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>	<ol style="list-style-type: none"> 1. For each failure to meet performance standard, DHS may impose: <ol style="list-style-type: none"> a. 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 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. <p>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</p>

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		<p>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 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.

ⁱ 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.

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