

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

Pursuant to Ark. Code Ann. 19-11-267 et. seq., the selected Vendor shall comply with performance based standards. Following are the performance based standards that will be a part of the contract and with which the Vendor must comply for acceptable performance to occur under the contract.

- I. The Vendor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the Vendor or to the Vendor'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 Vendor 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 because of the Vendor'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 Vendor'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 shall include the input of the vendor to establish standards that are reasonably achievable. Any such changes shall be evidenced in writing and duly signed by both parties.
- V. The contract program deliverables and performance indicators to be performed by the Vendor are provided in the following table, which defines service criteria<sup>1</sup>, acceptable, and damages for insufficient performance<sup>2</sup>.

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<sup>1</sup> Nothing in this table is intended to set forth all obligations of the Vendor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

<sup>2</sup> The damages set forth are not exclusive and shall in no way exclude or limit any remedies available at law or in equity

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<p><b>Performance Management - CAP</b>            If the State performance review indicates the Vendor's performance is below the defined metrics or thresholds and not otherwise addressed in the contract provisions, the Vendor must submit a Corrective Action Plan (CAP) to the State within five (5) State business days. The State will review the CAP within five (5) State business days, and, if requested by the State, the Vendor must modify the CAP within five (5) State business days.</p>	<p>Corrective Action Plan (CAP). If the State review reflects that the Vendor's performance is below the defined metrics or thresholds and not otherwise addressed in the contract provisions, the Vendor must submit to the State a Score Card Corrective Action Plan (SCCAP) within five (5) business days. The State will review the CAP within five (5) business days, and, upon request by the State, the Vendor must modify the CAP within five (5) business days</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) 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>Business Continuity – Failover</b> In the event of an automatic (which is pre-defined by the State) or State-declared failover, the Vendor solution for all production Infrastructure must automatically reroute to another site. Should a failover occur, the Vendor must ensure no more than a maximum of four (4) hour Recovery Time Objective (RTO) and a maximum of one (1) hour Recovery Point Objective (RPO).</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria. RTO =4 hours, hours, RPO = 1 hour</p>	<p>If vendor fail to meet RTO and RPO SLA objectives, The State shall assess the liquidated Damages as: Resolution Performance Standard timeframe: \$1,000 per hour for the period past the RTO Objective.</p>
<p><b>Business Continuity – Reporting</b>            Vendor shall notify the State within 30 minutes of initial occurrence of a Severity 1, 2 or 3 incident or Deficiency (see BC7). The State defines an</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>One thousand dollars (\$1000) per calendar day that an incident report is not submitted within twenty-four (24) hours.</p>

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<p>Incident, Deficiency, or Issue that is causing severe Financial or productivity impacts, including module or functionality downtime. The Vendor shall provide the plan for resolution within four (4) hours. Vendor must complete an incident report within twenty four (24) hours. Vendor shall use the State format and process for completing the Incident report.</p>		
<p><b>Business Continuity – Standards</b> Vendor shall test data center failovers, at least annually, with no impact to the business.</p>	<p>Should the DR test not be completed annually or if the DR test impacts the production system, the State will require liquidated Damages.</p>	<p>The State shall assess the liquidated damages of 1,000 per day past the agreed upon date for DR Testing.</p>
<p><b>Certification – System Compliance</b> Vendor's solution must achieve Federal certification of the features and functionality and must continue to remain certifiable and attestable by the Vendor throughout the Product's life cycle for any State/Federally approved/mandated changes, modifications or enhancements made during the licensed Contract period. Vendor shall achieve CMS Federal Certification retroactive to day one of the quarter following the System implementation based on the approved project schedule.</p>	<p>Vendor's solution must achieve CMS Federal Certification and continues to remain certifiable by the Vendor throughout the Product's life cycle during the licensed contract period, as specified in the RFP</p>	<p>Vendor shall be liable for the difference between the maximum allowable FFP and that received by the State for the assembly portion of the new Product Components, if Federal funding does not fully compensate the State at the maximum allowable FFP rate for the Vendor's firm, fixed-price contract as delivered by the Vendor for reasons attributable to performance or nonperformance of the Vendor.</p>

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<p><b>Certification – CMS Compliance</b>  Vendor shall meet HIPAA compliance requirements and all federal and state regulations and standards regarding privacy, security, and individually identifiable Protected Health Information (PHI), as identified in HIPAA of 1996 and updates to the Act known as HIPAA II. Reimbursement of any federal penalties the State incurs may be assessed to Vendor for violations caused by Vendor or its delegates. In instances when a potential security breach occurs, the State requires immediate initial notification by Vendor and written documentation, based on confirmed security breach, of the breach within four (4) hours and continue with on-going communications.</p>	<p>HIPAA Compliance Requirements: Vendor shall meet all federal regulations regarding standards for privacy, security, and individually identifiable Protected Health Information (PHI) as identified in the HIPAA of 1996 and updates to the Act known as HIPAA II, as specified in RFP.</p>	<p>Vendor shall be liable for all penalties that the State is assessed for failure to meet HIPAA Compliance Requirements due to Vendor's failure to meet obligations under the contract.  One thousand dollars (\$1000) in which notification of a potential breach has not been received within one hour or written explanation of the potential or confirmed breach within twenty four (24) hours, and then \$1,000 per State business day for each additional day a CAP is not submitted to the State</p>
<p><b>Computing Environments – Testing</b>  Vendor shall provide and maintain dedicated online testing environments accessible by the State and approved Contractors Monday thru Friday, 7am (Central) to 6pm (Central). These environments must have the same database management tools, hardware, software operating system, and utilities that are installed in the production environment.  Some testing environments, upon request and approval from the State, may be eliminated or removed after the DDI phase.  Before testing any environment, the entry and exit criteria must be defined. The Entry criteria will be the conditions that must be met before you can start the test. Exit Criteria is utilized to prevent a task from being considered completed when there are still outstanding parts of the task which have not been finished. Additionally, Exit Criteria is used to report against and to plan when to stop testing.  Vendor shall not exit a testing phase nor begin a new phase of testing until all Priority 1 defects are corrected and implemented.  Vendor shall provide the testing environments required and their definitions are listed below:</p>	<p>Testing environments must be available and accessible 99.5% of the time to all State designated personnel Monday - Friday, 7 a.m. to 6 p.m. Central Standard Time.</p>	<p>If downtime exceeds the allowable metric (available hours / downtime), measured weekly, the State can assess liquidated damages up to \$1000 per day.</p>

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<p>1. Unit Testing - In unit testing each module of the software is tested separately.</p> <p>2. System Testing - testing of a complete and fully integrated software product.</p> <p>3. Integration Testing - the process of bringing together various types of software sub-systems so that they create a unified single system.</p> <p>4. Regression Testing-testing existing software applications to make sure that a change or addition hasn't broken any existing functionality.</p> <p>5. User Acceptance Testing (UAT) - testing conducted on a product by the end users of the product for approval for production release. Security for UAT environment must be same as Production environment.</p> <p>6. Parallel Testing - a software testing type, which checks multiple applications or subcomponents of one application concurrently.</p> <p>7. Prototype Development - Software prototyping refers to the process of visualizing a software product before it has been created.</p> <p>8. End-to-End Testing - is a methodology used in the software development lifecycle (SDLC) to test the functionality and performance of an application under product-like circumstances and data to replicate live settings. The goal is to simulate what a real user scenario looks like from start to finish.</p> <p>9. Smoke Testing - is a software testing process that determines whether the deployed software build is stable or not.</p> <p>10. Stress Testing - the process of determining the ability of a computer, network, program, or device to maintain a certain level of effectiveness under unfavorable conditions.</p> <p>11. Time travel capabilities must be used - software testing to fully ensure your critical date sensitive business rules are free of date bugs and your software is reliable. Testing according to a defined period and comparing results or seeing possible impacts to processing.</p>		
<b>Contract Management – Standards</b>	The Vendor shall deliver	If Deliverable is late or

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<p>Vendor shall deliver all Milestones required in RFP and must be achieved on the dates specified in the Vendor's state approved Work Breakdown Structure (WBS) or modified WBS as approved using the State Change Order process. State will provide final acceptance of all Milestones in written form.</p>	<p>all Deliverables to the State as required in RFP Statement of Work, in final form on the dates specified. The State must review and provide final acceptance in written form of all Deliverables as specified in the RFP.</p>	<p>fails to meet the State's material specifications for that deliverable, the penalty shall be One (1) % of the Deliverable amount per business day for the first three (3) days and increasing to five (5) %per business day after the first three (3) business days.(Beginning on day four (4).</p>
<p><b>Contract Management – Performance</b>  Acceptable performance of all provisions and performance indicators in this contract will be determined at the sole discretion of DHS. In addition to remedies in this contract, one or more of the following remedies may be imposed for unacceptable performance of a provision or performance indicator:</p> <ol style="list-style-type: none"> <li>1. The Vendor shall submit and implement an acceptable Corrective Action Plan (CAP). Payment may be delayed pending satisfactory implementation of the CAP.</li> <li>2. Payment may be withheld or reduced, as follows.  State may deduct from "payment amounts due" to the Vendor if the Vendor fails to perform as defined in the contract. State must notify the Vendor, on the Vendor's Invoice, of the deductions in payment amounts due and the failure to perform. State must notify the Vendor on the Invoice Payment of the applicable withholds or deductions that are planned for actual damages.</li> <li>3. The contract may be terminated according to the provisions in RFP.</li> <li>4. Any publicity concerning this contract, including notices, information pamphlets, press releases, research, reports, signs, Web posting, and similar public notices prepared by or for the Vendor shall have prior written approval and consent from the State and contain a statement indicating sponsorship by the Vendor and State.</li> <li>5. The language of the statement will be specified by State after the contract is awarded. The Vendor shall obtain prior written approval from State before</li> </ol>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>1st Incident: A Corrective Action Plan, acceptable to AR DHS, shall be due to AR DHS within ten (10) business days of the request.  2nd incident: A twenty percent (20%) penalty shall be assessed in the following months' payments to the Vendor for each thirty (30) calendar day period the Vendor is not in full compliance with these service criteria. The twenty percent (20%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place.  The total of all damage credits in any given month shall not exceed one hundred percent (100%) of the monthly invoice unless a 3rd incident occurs for any of the service criteria.  3rd incident: AR DHS reserves the right to impose additional penalties, including, but not limited to withholding payment on future invoices until Vendor is in full compliance, a substandard VPR maintained in AR DHS' Vendor file, and contract termination.</p>

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<p>issuing any new publicity associated with the contract. The penalty will be twelve thousand, five hundred dollars (\$12,500) per incident in which State approval is not obtained.</p> <p>6. The language of the sponsorship statement will be specified by DHS after the contract is awarded.</p> <p>7. The Vendor shall obtain prior written approval from DHS before issuing any new publicity associated with the contract.</p>		<p>Damages for failure to obtain approval from DHS for unauthorized publicity <del>The payment</del> will be twelve thousand, five hundred dollars (\$12,500) per incident in which DHS approval is not obtained.</p>
<p><b>Contract Management – Response Time</b></p> <p>Vendor shall meet the system response time requirements listed below. Response time must be measured during normal working hours, which are 8:00 AM to 5:00 PM, Central Standard Time (CST), Monday through Friday, CST except for State observed holidays.</p> <ol style="list-style-type: none"> <li>1. 99.5% of all responses for all applications must be completed within three (3) seconds, averaged daily, per hour except for the POS system.</li> <li>2. All POS system transaction response times must be completed within 2 seconds 99.5% of the time. All POS transaction response times will be measured 24x7, except for State approved scheduled down time.</li> <li>3. The Web Portal response times must be measured 24x7, except for State approved time for scheduled system maintenance.</li> <li>4. The Vendor shall only be responsible for that portion of the system and communication link for which the Vendor has responsibility and control.</li> <li>5. For system response time performance measures, Vendor control must be defined as any Sub-Vendor/Vendor service (e.g., phone, internet provider, software) or point up to the state side of the router/server.</li> <li>6. The Vendor shall provide a system to monitor, log and report on response times.</li> <li>7. The Vendor shall provide response times for each type of transactions and report by transaction type.</li> </ol>	<p>Responses for all applications are to be measured per hour, per day, averaged daily. The only time measured is the processing time within Vendor's system; starting at the time request is received by the Vendor's network until the time the transactions leave the Vendor's network. Vendor shall also report response times by hour and by day to in order to understand peak response time issues.</p> <p>Interactive Response Time for each transaction will be recorded daily from midnight to midnight each day, measured daily and weekly and reported daily, weekly, and monthly.</p>	<p>If downtime exceeds the allowable metric (available hours / downtime), measured weekly, the State may assess liquidated damages up to \$1000 per calendar day. For any continued, unresolved downtime exceeding 30 days, DHS may increase the liquidated damage up to \$5,000 per calendar day.</p>
<p><b>Contract Management – Performance Standards</b></p>	<p>The State and the Vendor shall conduct regularly</p>	<p>Five hundred dollars (\$500) per calendar day</p>



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<p>Vendor shall provide the support, identification and collection of all Services Delivery performance standards as identified by the State. The State strives to develop a more structured system monitoring process supported by automated reporting processes. The Vendor will either use or interface with the Arkansas Enterprise tools for the State to monitor and audit the Vendor's system performance. All system performance standards must be stored in a central repository and dashboard for reporting and auditing purposes (i.e., State Deliverable Management Tool) and will be subject to the Vendor's performance review as measurable criteria.</p> <p>The Vendor, in cooperation with the State, is responsible for performing the following activities:</p> <ol style="list-style-type: none"> <li>1. Monitor the system's Quality of Service (QoS) (output)</li> <li>2. Monitor the system's KPIs and service levels</li> <li>3. Capture system performance data</li> <li>4. Initiate and report system problem tickets when defects are identified</li> <li>5. Establish priorities for all problem tickets</li> <li>6. Review and approve problem tickets, interim Vendor responses, system CAPs</li> <li>7. Initiate all correction notices to the Business Offices</li> <li>8. Participate in the Score Card performance review assessments</li> <li>9. Manage administration of State initiated quality audits</li> </ol>	<p>scheduled performance reviews to ensure the system and services are performing as required, as specified in RFP</p>	<p>the Vendor does not meet the performance standards as mutually agreed upon with the State.</p>
<p><b>Drug File Updates – File Maintenance</b> Vendor shall establish and maintain a process to remove non-rebate eligible drugs and products from pharmacy point of sale coverage that do not have FMAP, with the exception of State approved drugs and/or products that are deemed medically necessary. This process includes editing for FMAP, removing as indicated by the State and tracking these drug exceptions.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>Five hundred dollars (\$500) per calendar day the Vendor does not meet the criteria as mutually agreed upon with DHS.</p>
<p><b>Drug Rebate – Reporting</b> Vendor shall identify, collect, and report to the State, all paid and unpaid NDC</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the</p>	<p>Five hundred dollars (\$500) per incident for failure to notify the AMPP</p>



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<p>rebates by manufacturers as it relates to applying dollars received per labeler per NDC per rebate invoices, adjusting prior period adjustments, adjusting units, reporting to the State, keeping up with interest and dispute resolution.</p>	<p>described service criteria.</p>	<p>in writing of all pharmaceutical manufacturers whose state supplemental rebate payments are delinquent greater than 90 days from date of invoice</p>
<p><b>Defect Management – Identification/Resolution</b>  The State, in conjunction with the Vendor will define and prioritize all defects with a Priority Level. Defect Priority Levels are defined as follows:  1. Level 1: Impacts multiple production systems and no workaround is available (potential fast track).  2. Level 2: Impacts multiple production systems and an acceptable workaround is available  3. Level 3: Impacts production and has a workaround.  4. Level 4: Minor impact with a workaround.  5. Level 5: Cosmetic.  Defect analysis must be performed within one business day for all defects and will be discussed during the weekly Defect meeting with the State. New defects will be discussed and a Priority Level will be assigned. The State and Vendor will jointly determine the due date for each defect.  Defects are to be identified and handled the same during the entire life of the contract and not just DDI or warranty period.</p>	<p>Vendor shall resolve all defects within the State and Vendor mutually agreed upon timeframes</p>	<p>Five hundred dollars (\$500) per four (4) hours in each calendar day a Severity One (1) Defect Analysis is not provided on schedule to DHS.  Two hundred fifty dollars (\$250) per calendar day the Commitment Date is delayed</p>
<p><b>Staffing Management – Drug Rebate</b>  Vendor shall identify, collect, and report to the State, all paid and unpaid NDC rebates by manufacturers as it relates to applying dollars received per labeler per NDC per rebate invoices, adjusting prior period adjustments, adjusting units, reporting to the State, keeping up with interest and dispute resolution.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>Five hundred dollars (\$500) per incident for failure to notify the AMPP in writing of all pharmaceutical manufacturers whose state supplemental rebate payments are delinquent greater than 90 days from date of invoice.</p>
<p><b>RDUR Management - Standards</b>  Vendor shall provide to the State and to the DUR board comprehensive Therapeutic Class Reviews (TCR) to support the PDL drug class or drug</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria</p>	<p>Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the</p>

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<p>category for drugs under review. The documentation provided must include, but not limited to:</p> <ol style="list-style-type: none"> <li>1. Comparisons of drugs and products for efficacy.</li> <li>2. Safety.</li> <li>3. Side effects.</li> <li>4. Dosing.</li> <li>5. Indications.</li> <li>6. Prescribing trends.</li> </ol> <p>These reviews must contain up-to-date and complete information to be used as a tool before and during the DUR board meetings, and any meeting where PDL is discussed. Cost efficiencies of each drug or product within the therapeutic drug or product class shall be provided to the Arkansas Medicaid Pharmacy Program and not discussed in the Review Committee public meetings. All decisions on preferred/non- preferred drugs will reside with State.</p> <ol style="list-style-type: none"> <li>1. Vendor shall provide the State with the TCRs two weeks prior to the PDL/DUR meeting. Vendor shall use the TCRs and work with State to develop the presentation with the DUR/PDL Committee. TCRs are to contain up-to-date data and all information to support the recommendations made to the committee. TCRs must be updated at least annually or more frequently as warranted.</li> <li>2. Vendor shall provide cost efficiencies (Cost Sheets) to the State regarding drugs under review. The Cost Sheets will be sent to State two (2) weeks before the DUR meeting. Vendor will not provide the Cost Sheets data to the DUR committee.</li> </ol>		State.
<p><b>RDUR Management– Standards</b> Vendor shall generate and review client exception profiles with scope determined by State projects selected monthly for analysis. Monthly client profiles must cover all age groups, and will be reviewed based on the therapeutic algorithms, not according to client age. Periodically, based on recommendations from the DUR Board, Medicaid Pharmacy Program or the RDUR Team, a therapeutic algorithm</p>	One hundred percent (100%) of the time the Vendor shall meet the described service criteria	Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.

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<p>for the monthly review may be chosen that will specifically target certain populations by age, both community-based clients and LTC eligible clients, for review.</p> <p>Vendor shall forward these client exception profiles to the RDUR Team members within three business days of the generation date using a secure web-portal that meets State security requirements. The DHS IT Security and Privacy compliance office must approve the security of the web-portal.</p>		
<p><b>RDUR Management – Lock-In</b></p> <p>Vendor shall establish and maintain a pharmacy “lock-in” program, within the first thirty (30) calendar days of Go-Live and in accordance with all State Medicaid and Federal Policies, for Medicaid clients who utilize multiple pharmacies or multiple prescribers and whose profiles show patterns of abuse, gross overuse, inappropriate, or medically unnecessary care based on the Medicaid Pharmacy Program's data for drug claims submitted for Medicaid reimbursement.</p>	<p>Letter - all lock-in correspondence/letters for clients, prescribers, and pharmacy providers must be previously reviewed and approved by the State and shall be distributed within ninety calendar days from go live and will continue monthly as required.</p>	<p>Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.</p>
<p><b>Helpdesk – Performance Management</b></p> <p>Vendor shall ensure the Call Center meets or exceeds the following minimum standards:</p> <ol style="list-style-type: none"> <li>1. No block calls (calls receiving a busy signal) must be received.</li> <li>2. The weekly average abandon rate must not exceed five (5) percent. A call will be considered abandoned after the first 30 seconds when a caller chooses to disconnect after the introductory message and prior to being connected to a Technician.</li> <li>3. Hold time, when the caller is placed on hold by the representative in order to perform further research to assist the caller, must not exceed an average of 120 seconds per month.</li> <li>4. All calls must be answered within three rings (a call pick-up system or IVR that places the call in queue may be used) however queue times must not exceed an average of 30 seconds on average.</li> </ol>	<p>Vendor shall ensure each metric must be measured per hour, per day and reported weekly. These metrics must be reported in the Weekly Call Center report, utilizing the same parameters as defined above.</p>	<p>If any block calls are received the state may assess a \$50 for each call. If abandon call rates exceed 5% on average monthly, the state may assess a \$1000 penalty. If hold times exceed 120 seconds, on average per month, the State may assess a \$1000 penalty. If request to add music or messages are not completed within 24 hours, the state may assess a \$1000 penalty per incident. These penalties may be modified at the discretion of the State Contract Manager</p>

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5. All State requests for placement of hold messages or music must be executed within 24 hours of the request.		
<p><b>Maintenance &amp; Operations – Standards</b>  Vendor shall provide the ability to identify and audit claims that have been paid for Clients when we have received post adjudication eligibility termination information and provide the State with impacted Providers. The Vendor shall perform reversals on these claims as directed and authorized by the State.</p>	One hundred percent (100%) of the time the Vendor shall meet the described service criteria.	Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.
<p><b>Maintenance &amp; Operations - Standards</b>  Vendor must audit the Department’s Pharmacy claims processing activity relating to the payment of selected Medicaid claims at least bi-annually. The objectives of the audit are to determine whether pharmacy claims were adjudicated with the correct pricing including drug reimbursement methodology, dispensing fee, COB, and any applicable cost share.</p>	One hundred percent (100%) of the time the Vendor shall meet the described service criteria.	Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.
<p><b>Documentation Management – Mail &amp; Print</b>  Vendor must design, create, and publish Provider notices, letters, or other types of notification material as needed and directed by the State to inform the Provider community of changes or new policy. These notices may be RA messages, Web-Portal banner messages, email distribution or paper copies mailed. The State will work with the Vendor on determining the best methods and the timeline for completing.</p>	One hundred percent (100%) of the time the Vendor shall meet the described service criteria.	Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.
<p><b>Reporting Management – Standards</b>  Vendor shall provide and deliver all reports, as listed within the RTM. Each report is due within their required documented timeframe:  1. Any/all reports determined to be "weekly" in nature are due on the following Monday, unless otherwise directed by the State.  2. Any/all reports determined to be "monthly" in nature are due within five state business days post month end, unless otherwise directed by the State.</p>	Monthly, Quarterly & Annual Reporting: 1. Any/all reports determined to be "monthly" in nature are due the 5th business day of the month. 2. Any/all reports determined to be "quarterly" in nature are due three business days prior to the Quarterly	Two Hundred Fifty Dollars (\$250) per State business day the scheduled report is not received or is unacceptable to the State.

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<p>3. Any/all reports determined to be "quarterly" in nature are due within five state business days post month end, unless otherwise directed by the State</p> <p>4. Any/all reports determined to be "annual" in nature are due 45 days prior to the Annual report's due date.</p>	<p>DUR Board meeting.</p> <p>3. Any/all reports determined to be "annual" in nature are due 45 days prior to the Annual report's due date. Any changes to the initial report will be available 7 business days from the requested change. Any ad hoc reports will be completed by seven business days if the requested data are available. If the information is not readily available in the System and must be retrieved working with a third party this will take longer than the agreed-upon 7 business days. In that case, Vendor will inform AMPP and all involved and will keep them apprised of the ability to retrieve the requested information.</p> <p>4. Any/all reports determined to be "ad hoc" or upon special request from the State are due within seven business days of the request or an agreed-upon time frame</p>	
<p><b>Staffing Management – Standards</b>  Vendor shall identify and maintain a complete set of all Key Personnel, Lead Personnel, and General Personnel job/labor categories in a labor rate card specific to Operations, that must be updated and submitted to the State with each contract amendment and/or renewal. The State must approve all individuals in Key Personnel positions, which are listed in Attachment A.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>For vacant key positions, the following is applicable:  Five hundred dollars (\$500) per business day for each day over 2 weeks for failure to fill vacant position with a temporary or permanent replacement.  One thousand dollars (\$1,000) per business day for each day over 90 calendar days, for failure to fill a vacant key position with a permanent replacement.  (Unless a different timeframe is mutually</p>

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		<p>agreed upon in writing for vacant position.)  Two thousand five hundred dollars (\$2,500) for failure to provide the services of a clinical manager at the DRC meeting per scheduled meeting.</p>
<p><b>Staffing Management – Lead Personnel</b>  Vendor shall provide Lead personnel who are the State reviewed and approved functional, management-level positions that provide daily support and coordination of the staff that perform contract functions and responsibilities; inclusive of (but not limited to) deliverables, performance, services, reporting, analytics, maintenance, and operations of the currently implemented solution and as defined under the scope of the Contract arising out of this RFP. Vendor shall manage all staff representative of Lead Personnel to the following guidelines:</p> <ol style="list-style-type: none"> <li>1. Suggested to be full-time, equivalent positions (but FTE count should be managed at Vendor's discretion based upon service level expectations and business needs)</li> <li>2. Meet minimum state approved qualifications</li> <li>3. Subject to minimum notice of vacancy/replacement</li> <li>4. Does not remain vacant for more than 30 calendar days, or held on a temporary/replacement basis for more than 90 calendar days, in a one-year period</li> <li>5. Subject to State review and approval for assignment and/or replacement.</li> </ol> <p>Additional Lead Personnel positions may be recommended and/or proposed to the State by Vendor; any such request must include documents that provide detailed justification for the addition(s), describe general responsibilities, and propose minimum qualifications and salary.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>Temporary replacement named within thirty (30) days position becomes vacant. Two hundred fifty dollars (\$250) per business day for each day over 2 weeks for failure to fill vacant position with a temporary replacement. A permanent replacement must be approved by the State and filled within 90 calendar days of the date the position becomes vacant. No position may be filled with a temporary appointee for more than 90 calendar days in any single (1) year period. Five hundred dollars (\$500) per business day for each day over 90 calendar days, for failure to fill a vacant position. Unless a different timeframe is mutually agreed upon for vacant position.</p>
<p><b>Staffing Management – General</b>  Vendor shall provide staff to support the Medicaid Pharmacy Program Help Desk</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the</p>	<p>Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet</p>

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<p>that can accomplish the required tasks and service levels performed by licensed pharmacists (of which one (1) assists with the drug rebate program) and pharmacy technicians supported by adequate clerical staff. Two (2) of the Vendor's pharmacists will be housed at the State offices with the AMPP team. Vendors shall clearly define staffing models that differ from the defined model used by the State and receive State approval.</p>	<p>described service criteria.</p>	<p>the specified criteria.</p>
<p><b>System Compliance &amp; Security – Standards</b>  Vendor's system must support protection of confidentiality of all Protected Health Information (PHI) delivered over the Internet or other known open networks via encryption using Advanced Encryption Standard (AES) and an open protocol such as Transport Layer Security (TLS), supported ciphers, Secure Sockets Layer (SSL), Internet Protocol Security (IPsec), XML encryptions, or Secure/Multipurpose Internet Mail Extensions (S/MIME) or their successors. The Vendor's system must be subject to external Audit checks.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.  The Vendor must notify the State within 4 hours of any known improper or unauthorized attempt at modification of ePHI.</p>	<p>One thousand dollars (\$1000) per instance one of the metrics are not followed.</p>
<p><b>System Compliance &amp; Security – Security Policies</b>  Vendor shall implement the following security and compliance measures:  1. Security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level to comply with the HIPAA Privacy and Security Rules and the Health Information Technology for Economic and Clinical Health (HITECH) Act. This includes, but is not limited to the following:  2. Implementing the security and privacy controls specified in the MARS-E Catalog of Security and Privacy Controls.  3. Conducting regular security and privacy assessments.  4. Maintaining a security and privacy incident response plan.  5. Reporting security and privacy incidents to the DHS Privacy Officer and the DHS Chief Information Security Officer.</p>	<p>As measured by failure to complete items 1-8 over the life of this contract will result in Penalty.</p>	<p>Two Hundred Fifty Dollars (\$250) per instance of failure to complete.</p>



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<p>6. Participation in an annual penetration test.</p> <p>7. The contractor must agree to be subject to the MARS-E audit process. This includes, but is not limited to the following:</p> <ul style="list-style-type: none"> <li>a. Permitting CMS auditors to access the contractor's facilities and systems.</li> <li>b. Providing CMS auditors with access to the contractor's security and privacy documentation.</li> </ul>		
<p><b>System Compliance &amp; Security – Reporting</b>  Vendor shall establish and document Security and Privacy monitoring criteria, thresholds, benchmarks, and alerts with respect to an operationalized Systems and Services environment. Vendor shall submit a report detailing criteria and any findings to the State, as directed.</p>	<p>An occurrence/finding is considered to be any instance the Vendor fails to track and resolve a Scan Finding per MARS-E 2.0 (or current version) resolution guidance. Damages are applicable to every singular instance of an occurrence.</p>	<p>One-half percent (.5%) of monthly invoice per noncompliance. Assessed Monthly</p>
<p><b>System Compliance &amp; Security</b>  Vendor shall track all Scan Findings as "issues" and resolve in a timeline per MARS-E 2.2 (or current version) resolution guidance. Vendor shall track using a Plan of Actions and Milestones (POA&amp;M). All security and vulnerabilities must be reviewed during a weekly meeting.</p>	<p>An occurrence is any instance the Vendor fails to complete a CIS Hardening Scan with no findings prior to server acceptance and/or annually or fails to deliver a CIS Hardening Scan Level 1 to DHS with the monthly SLA Report (when applicable). Damages are applicable to every singular instance of an occurrence. Partial time periods succeeding initial noncompliance are rounded up to the nearest two (2)-business-hour increment and prorated.</p>	<p>One percent (1%) of monthly invoice for failing to deliver a full, unedited scan to DHS within two (2) business days of request and an additional one percent (1%) of monthly invoice per every two (2)-business-day period succeeding initial delivery noncompliance. Assessed Monthly</p>
<p><b>System Compliance and Security</b>  The Vendor will propose, for State approval, and implement system controls to ensure system security during software program changes and promotion in any environment that contains regulatory data. The Vendor must report any confirmed security breaches during the software change or promotion.</p>	<p>The Vendor will notify the State within four (4) hours of identification of any successful security breach.</p>	<p>One thousand dollars (\$1000) in which notification has not been received within four (4) hours, and then \$1,000 per State business day for each additional day a CAP is not submitted to the State.</p>

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<p><b>System Compliance and Security – Documentation Management</b>  The Vendor must retain all logs related to security incidents for ten (10) calendar years, or as prescribed by the most recent version of MARS-E.</p>	<p>One hundred percent (100%) of the time the Vendor shall meet the described service criteria.</p>	<p>Five percent (5%) of monthly invoice per incident of unretained logs.  Assessed Monthly</p>
<p><b>System Compliance and Security – Reporting</b>  Vendor shall notify DHS within four (4) hours of identifying any potential or actual security incident. Vendor shall provide an initial written report to the Department within 24 hours following the identification of any Security Incident, detailing all actions taken concerning the incident. "Security incident" does not include pings, port scans, unsuccessful log-on attempts, denials of service, other broadcast attacks on our firewall, and any combination of the above, so long as such incident event did not result in unauthorized access, use or disclosure of PHI, or system unavailability; this includes communications to a defined list of personnel at the State (tied to COOP/DR). The State staff shall approve the Vendor's response plan, including specific steps and timeframes for resolution or indicate that it is continuing to investigate.</p>	<p>The Vendor will initiate communications with State staff during an incident and ongoing communications will be hourly and-progressive.</p>	<p>One thousand dollars (\$1000) in which notification has not been received within four (4) hours, and then \$1,000 per State business day for each additional day a CAP is not submitted to the State.</p>
<p><b>System Compliance and Security – Testing</b>  Vendor shall work with a 3rd party vendor for Penetration testing which must be completed forty-five (45) calendar days prior to operational readiness, upon major System changes, and on an annual basis. Penetration testing results must be delivered to DHS within ten (10) business days of completed testing. Any issues resulting from the Pen testing must be corrected by Vendor within ten (10) business days</p>	<p>An occurrence is any instance the Vendor fails to complete Penetration Testing forty-five (45) calendar days prior to Go-Live, upon a major system change, and/or annually or fails to deliver Penetration Testing results to DHS within ten (10) business days of completion. Damages are applicable to every singular instance of an occurrence. Partial time periods succeeding initial noncompliance are rounded up to the nearest business-day increment and prorated.</p>	<p>\$5,000 penalty for failing to complete Penetration Testing forty-five (45) calendar days prior to Go-Live, upon a major system change, and/or annually; one percent (1%) of monthly invoice for Penetration Testing results that are not delivered to DHS within ten (10) business days of completion; and an additional one-half percent (.5%) of monthly invoice for every ten (10)-business-day period succeeding initial noncompliance. Assessed annually, upon major system changes, and forty-five (45)</p>

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		calendar days prior to Go-Live.
<p><b>System Compliance and Security – Access</b>  The Vendor must conduct a review of all access rights and update access rights quarterly or upon request of State. The Vendor will provide a workflow process for review activities and actions. System will also provide auditing capabilities for approved audit resources. CMS requests to audit access rights and user ids. The Vendor must supply this information on a quarterly basis broken down by department. System to review and approve by the State  All such documentation will be maintained a minimum of six (6) years per HIPAA.</p>	<p>Calendar quarterly audit review and reporting must be provided to the state.</p>	<p>Two Hundred Fifty Dollars (\$250) per business day the scheduled report is not received or is unacceptable to the State.</p>
<p><b>Documentation Management – SDLC</b>  Vendor shall develop, maintain, and submit for State approval, all SDLC documentation, including all requirements, test planning, technical specifications, and test results, as updated or following each approved project milestone ongoing throughout the contract.</p>	<p>Vendor shall submit SDLC documentation within thirty (30) calendar days of approved milestone.</p>	<p>Two hundred fifty dollars (\$250) per calendar day the Vendor does not meet the schedule as mutually agreed upon with the State.</p>
<p><b>Work Item Tracking – Standards</b>  Vendor shall create an entry for all work/service items into a State-approved or managed tracking system, within 24 hours of identification. Work/service items may be identified due to a work need, such as Help desk &amp; support, testing, Risk and Issue Management, or by the State.</p>	<p>Work item entry must be made within 24 hours of notification to the Vendor.</p>	<p>\$100 per instance to meet schedule and \$100 per each additional day thereafter.</p>
<p><b>Work Item Tracking – Reporting</b>  Vendor shall provide reports on work/service items from the approved tracking system for designated State and Vendor staff acting on behalf of the State, for inquiry, ad-hoc, and audit reporting within a State approved timeframe.</p>	<p>Vendor shall produce Monthly reports on a schedule defined by the State and Ad hoc requests must be fulfilled within 24 hours.</p>	<p>\$100 per instance to meet schedule and \$100 per each additional day thereafter.</p>
<p><b>Work Item Tracking – Standards</b>  Vendor shall schedule work/service item based on the priority level assigned to each and work with the State to establish an agreed upon baseline target and completion dates for each. The State will determine the</p>	<p>Resolve all work/service items within the prescribed following timeframes:  1. Priority Level 1 - less than 24 hours</p>	<p>Two hundred fifty dollars (\$250) per calendar day the Commitment Date is delayed</p>

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<p>priority of work/service item failures. Completion dates are determined by date completed.</p> <p>Vendor must respond based on the identified priority. Vendor shall provide resolution or Corrective Action Plan (CAP) within contractual time frames, as defined in Vendor's Contract for Help Desk Support, Maintenance Management Plan, or Business Continuity Plan.</p> <p>1. Include but not limited to: access request, assistance, questions, system Issue, etc.</p> <p>2. Priority levels and descriptions are provided below: Priority/Description:</p> <ul style="list-style-type: none"> <li>a. Priority One: Large business impact/Legislative request</li> <li>b. Priority Two: Impact to a single functional area or multiple users or multiple functional areas</li> <li>c. Priority Three: Questions or Issues with potential high impact or urgency</li> <li>d. Priority Four: Questions or Issues with low impact or urgency</li> <li>e. Priority Five: Items to be scheduled and mutually agreed upon by the State</li> </ul>	<ul style="list-style-type: none"> <li>2. Priority Level 2 - within two (2) business days</li> <li>3. Priority Level 3 - within five (5) business days</li> <li>4. Priority Level 4 - within thirty (30) business days.</li> </ul>	
<p><b>Performance Bonding</b></p> <p>The Contractor <b>shall</b> be required to obtain performance bonds to protect the State's interest as follows:</p> <ul style="list-style-type: none"> <li>1. The amount of the performance bonds <b>shall</b> be one hundred percent (100%) of the annual contract price, unless the State determines that a lesser amount would be adequate for the protection of the State.</li> <li>2. The State <b>shall</b> require additional performance bond protection when a contract price is increased or modified.</li> <li>3. The additional performance bond <b>must</b> be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request.</li> </ul>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with Service Criteria at all times throughout the contract term as determined by DHS.</p>	<p>Damages shall be one percent (1%) per day, calculated using the annual contract amount, for each day Vendor fails to meet the Performance Bonding Requirements specified in Service Criteria.</p> <p>In addition, Vendor's continued failure to meet Service Criteria, may result in a below standard Vendor Performance Report (VPR) maintained in the vendor file and contract termination.</p> <p>Failure to provide is a breach of contract and may result in immediate contract termination.</p>

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<p>4. The contractor <b>shall</b> notify the State of any changes, modification, or renewals for the performance bond during the term of the contract. The performance bond documentation must be provided to the State with each required notice.</p>		
<p><b>A. 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>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><b>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>	<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.</p> <p>Final payment may be withheld from the vendor until all the elements of the transition are satisfied as determined by DHS.</p>
<p><b>Arkansas Freedom of Information Act (Ark. Code</b></p>	<p>Contractor shall respond to FOIA requests timely</p>	<p>1. For each failure to meet performance</p>

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<p><b>Ann. §25-19-101 et seq.):</b></p> <ol style="list-style-type: none"> <li>1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request.</li> <li>2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</li> <li>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A).</li> </ol> <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>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>	<p>standard, DHS may impose:</p> <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 calculated from the total payment for the identified month in which the deficiency took place; or</li> <li>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.</li> </ol> <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 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</p>

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		full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.

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.