

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

Pursuant to Ark. Code Ann. 19-11-267 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. The damages set forth below are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.
  
- 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><b>Scope of Work</b> Contractor must provide counseling services based on a family-centered approach and are intended to strengthen family functioning and are intended for families whose children are at risk of an out-of-home placement or have experienced an out-of-home placement and reunification is planned. Counseling must be directed toward improving the client's ability to function effectively within the family.</p> <p>Services shall be provided to reach outcomes specified in the IFB.</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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><b>Provider Qualifications</b></p> <ol style="list-style-type: none"> <li>1. The Contractor must remain certified and enrolled as a Behavioral Health Agency (BHA), Community Support System Provider (CSSP), Independently Licensed practitioner (ILP) or ILP Group service provider in the Arkansas Medicaid Program for the duration of the contract.</li> <li>2. Required licensures and certification shall be maintained throughout the duration of the contract.</li> <li>3. Verification of staff credentials shall be provided to DCFS upon request.</li> </ol>	<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) 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</p>

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<p>4. Contractor commits that it will not employ for services through this contract any person whose name appears on the registry as an offender of a true report of child maltreatment or who has an offense prohibited by Arkansas Code Annotated § 9-28-409 criminal records and child maltreatment checks.</p> <p>5. The Contractor shall submit to the DCFS Counseling Program Manager the results of a check with the Arkansas Maltreatment Central Registry and a criminal background check for any current or prospective employee providing services through this contract. The Contractor must keep documentation of these results on file and available for audit by DHS.</p> <p>6. Licensed professionals providing services must have a minimum of one (1) year experience in individual, family, and/or group therapy or under the supervision of a licensed professional. Provider must have experience providing counseling in the community, natural environment, and office based.</p> <p>7. Counseling services shall be provided by licensed professionals with expertise and experience in trauma-informed care. Each licensed mental health professional who provides DCFS counseling services can have training through Arkansas Building Effective Services for Trauma (ARBEST) for trauma informed therapies, certifications, or expertise in trauma-informed therapy/care.</p> <p>8. Contractor must maintain a record of training, certification, or expertise in trauma-informed care for each licensed mental health professional providing services under this contract.</p> <p>9. The Contractor must notify DCFS of any changes in personnel impacting the contracted services and provide documentation to DCFS of new</p>		<p>payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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>personnel with their qualifications prior to the delivery of services.</p> <p>10. The Contractor shall notify DCFS Program Manager of any changes in the business entity which include, but not limited to business entity existence, name change of the business, new location of the business, new telephone numbers and contact person.</p>		
<p><b>Referrals</b></p> <p>1. Contractors and DCFS Supervisor/designee shall collaborate to determine the appropriateness of referrals. The Contractor must inform the DCFS supervisor initially by email when there is a question concerning the appropriateness of the referral.</p> <p>2. Contractors must accept all DCFS referrals allowable within the limitations of the contract budget. If the contractor does not have capacity to accept the client the Contractor must notify DCFS Supervisor, so DCFS can make other provisions for the client.</p> <p>3. Contractors must accept referrals outside of their primary contracted area contingent on availability of staff and contract funding.</p> <p>4. The Contractor shall keep a referral log that documents all referrals as well as the reason for any refused referrals.</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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><b>Treatment Plan</b></p> <p>1. Contractor must complete and submit an initial assessment and treatment plan to the DCFS Supervisor within ten (10) working days of the initial intake for services.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards</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>

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<p>2. The Contractor shall submit to the county supervisor or designee a copy of the client's treatment plan and any updates to the treatment plan. Justification shall remain in the client's file.</p> <p>3. Contractor shall develop an assessment and treatment plan that addresses strength and needs of the client and family. The individual client/family treatment plan goals and objectives must be measurable and short term. The report will contain the following:</p> <ul style="list-style-type: none"> <li>• Plan for frequency of services – number of hours of direct services planned.</li> <li>• Specified time frames for achievement of goals and Objectives.</li> </ul> <p>4. Contractor must submit treatment plan updates to DCFS.</p>	<p>for acceptable performance throughout the contract term as determined by DHS.</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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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><b>Location and Scheduling</b></p> <p>Counseling services may be provided in an office based, or natural environment and/or via telehealth when deemed appropriate for client. Counseling shall not interfere with client's daily work/ school schedule therefore scheduling for services shall be flexible.</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) 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>In addition to the above penalties, DHS reserves</p>

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		<p>the right to impose additional penalties including without limitation, monetary damages, 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><b>Service Requirements</b></p> <ol style="list-style-type: none"> <li>1. The Contractor must provide services for each referral as specified in each client's treatment plan.</li> <li>2. Counseling services shall include individual, family, and/or group therapy. The service will build on the strengths of the family. The Contractor must understand environmental, behavioral, and cognitive interventions with families.</li> <li>3. The Contractor shall ensure that services will continue, uninterrupted, if a therapist is unavailable for an extended period.</li> <li>4. Contractor shall provide services for emotional support and guidance; problem identification and resolution; exploration of possible alternative behavior patterns; and the development and strengthening of capacity for personal and social functioning, improved parenting skills, anger management, conflict resolution, generational issues, domestic violence, substance abuse, and other issues.</li> <li>5. When trauma is identified as a contributing factor to the current issues being addressed in treatment, the Contractor must utilize evidence-based practices or trauma informed best practices in counseling sessions. A trauma-informed service delivery approach shall be applied when applicable.</li> <li>6. Contractor must provide individual, family and /or group therapy in</li> </ol>	<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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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>accordance with the client's treatment plan. Contractor shall provide medication management as specified in the client's treatment plan (if available). If the Contractor is unable to provide medication management, the Contractor shall refer the client to a licensed psychiatrist or other medical professional authorized to provide medication management.</p> <p>7. Contractor must maintain a service log documenting services rendered.</p> <p>8. Contractor shall attend all meetings requested by DHS including but not limited to family team meetings, court hearings, wrap around staffing, trainings and must provide court room testimony upon request by DHS.</p> <p>9.</p>		
<p><b>Monitoring</b></p> <p>1. Contractor must notify the DCFS Supervisor by telephone and/or email within forty-eight (48) business hours when a family receiving counseling services misses a counseling session without advanced notification to the contractor. The contractor and DCFS staff will confer to determine if counseling will continue, if the safety of the children has been compromised, and what steps will be taken to ensure the future participation of the family in counseling. The DCFS Supervisor's approval to continue counseling will be required after each incidence of a missed counseling session without advanced notification to the contractor.</p> <p>2. Contractor must notify the designated Program Manager when services are suspended for a minimum of three (3) consecutive business days due to illness, vacation, personal business, etc., The Program Manager will notify the area Financial Manager who will notify the County Supervisor. Planned absences should be reported two weeks in advance.</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a</p>

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<p>3. The Contractor must complete and submit to the DCFS Supervisor within ten (10) working days of closure of services a final report on the family's progress, a discharge summary and continued after-care plan recommendations.</p>		<p>below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Court</b></p> <p>Contractor shall provide court testimony upon request from DCFS and the court.</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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><b>Background Check</b></p> <p>The Vendor will perform criminal background checks on all proposed staff members. Pursuant to those background checks, no staff member <b>shall</b> be staffed on this project if they have committed an offense that would preclude State employment as a "designated position", if applicable to the underlying contracted services, under Ark. Code Ann. §21-15-</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the</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</p>



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<p>102 or, otherwise as a “designated financial or information technology position” pursuant to Ark. Code Ann. § 21-15-111. Contractor shall not employ for services through this contract any person whose name appears on the registry as an offender of a true report of child maltreatment or who has an offense prohibited by Arkansas Code Annotated § 9-28-409 criminal records and child maltreatment checks.</p>	<p>contract term as determined by DHS.</p>	<p>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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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><b>Privacy and Security</b></p> <p>The Contractor <b>shall</b> comply with all DHS policies governing the privacy and security of all personally identifiable information (PII) and/or other confidential information received or accessed on behalf of Arkansas DHS.</p> <p>The Contractor <b>shall</b> implement and maintain reasonable security procedures and practices regarding all protected health information and/or other confidential information as required by A.C.A § 4-110-104, The Personal Information Protection Act.</p> <p>The Contractor <b>shall</b> disclose any breaches of privacy or security by contacting the DHS Information Technology Security Office within one (1) business day of the breach at <a href="mailto:DHS.IT.Security.Team@dhs.arkansas.gov">DHS.IT.Security.Team@dhs.arkansas.gov</a>.</p> <p>The Contractor <b>shall</b> use protected health information and/or other confidential information only in a manner that is</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding</p>

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<p>necessary to provide the services required in this solicitation.</p> <p>The Contractor <b>shall</b> safeguard the use and disclosure of, and restrict access to, protected health information and/or other confidential information.</p> <p>The Contractor <b>must</b> maintain confidentiality and meet any applicable Privacy Act of 1974, Health Insurance Portability and Accountability Act (HIPAA), and Health Information Technology for Economic and Clinical Health (HITECH) Act requirements.</p>		<p>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><b>Payment and Invoicing</b></p> <p>A. The Contractor shall obtain all referrals in advance before scheduling clients for service. Invoicing for services rendered without proper authorization is subject to denial by DCFS.</p> <p>B. Contractor shall bill Medicaid or insurance for clinical or covered services prior to billing contract.</p> <p>C. The Contractor shall bill the DCFS contract for clients that are not insured and are not Medicaid eligible.</p> <p>D. A minimum of seventy percent (70%) of all billed time (exclusive of travel time) for counseling services must be direct service. Direct service is defined as face-to-face contact with the family.</p> <p>1 The Contractor must submit a list of indirect costs with invoices for DHS review and approval.</p> <p>E. The Contractor shall conduct activities and perform services resulting in the program deliverable from the beginning of the contract fiscal year through the end of the contract year and any contract extensions that may occur.</p> <p>F. Invoices for monthly billing must be developed online through the <a href="#">Provider Invoice Entry (PIE) application</a>.</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) 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>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, 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>G. Invoices along with the certification of compliance should be submitted to the DCFS Program Manager by the 10th day of the month. If the 10th day is on a weekend billing is due no later than the following Monday.</p> <p>H. The Contractor shall submit a monthly report which will include number of clients served, hours of service, services billed to Medicaid or other insurer, dollar amount billed to DCFS and contract balance.</p> <p>I. Billing must be signed electronically by an authorized agent or designee for the provider.</p>		
<p><b>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> <ul style="list-style-type: none"> <li>a. A child has been subjected to child maltreatment;</li> <li>b. A child died as a result of child maltreatment;</li> <li>c. A child died suddenly and unexpectedly; or</li> <li>d. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p>A privilege or contract shall not prevent a person from reporting maltreatment</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>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</p>

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<p>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>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><b>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>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</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 all elements of the transition are satisfied as determined by DHS.</p>

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<p>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><b>Arkansas Freedom of Information Act (Ark. Code 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>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"> <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 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> </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</p>

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		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.

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.