

## ATTCHMENT C – IV&V 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 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 accepted industry standards and shall include the input of the vendor to establish reasonably achievable standards. 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</b></p> <p>The State will monitor Vendor’s performance throughout the term of the Contract. If the State determines that the Vendor’s performance is below the defined metrics or thresholds contained in the Contract including all attachments, specifically looking to the specifications section, required activities and deliverables contained therein, the State will require that the Vendor come into compliance and may invoke any available remedies contained within the Contract or at law.</p>	<p>One-hundred percent (100%) of the time the Vendor must deliver services as outlined within Specifications section of the corresponding RFP.</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. A ten percent (10%) penalty will be assessed in the following months’ payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>2nd incident: A twenty percent (20%) 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 twenty percent (20%) 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>Staffing Management – Standards</b></p> <p>The vendor shall identify and maintain a complete set of all Key Personnel, Lead Personnel, and General Personnel. 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:</p> <p>Five hundred dollars (\$500) per business day for each day over 2 weeks for failure to fill a vacant position with a temporary replacement.</p> <p>One thousand dollars (\$1,000) per business day for each day over 90</p>

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<p>The IV&amp;V Vendor's staff shall conduct all aspects of the RFP in a timely, efficient, productive, consistent, courteous, and professional manner as representatives of the State. The IV&amp;V Vendor shall recruit highly qualified staff to provide all aspects of the services required by the RFP.</p> <p>DHS reserves the right to request a replacement within thirty (30) days once the Vendor has been notified by DHS that a replacement is needed.</p>		<p>calendar days, for failure to fill a vacant key position with a permanent replacement.</p> <p>(Unless a different timeframe is mutually agreed upon for the vacant position.)</p>
<p><b>IV&amp;V Project Management Plan</b></p> <p>The IV&amp;V Vendor will submit an IV&amp;V Project Management Plan (PMP) that describes all the project management processes, roles and responsibilities, and templates to effectively manage and control the project and meet the IV&amp;V contractual obligations. The PMP approach will be consistent with the Project Management Institute (PMI) Project Management Methodologies stated in the Project Management Body of Knowledge (PMBOK®) or equivalent and must align and integrate with the AME PMO processes, including integration with State enterprise management and tracking tools.</p>	<p>The IV&amp;V Management Plan must be delivered within forty-five (45) calendar days of the contract's actual start date.</p> <p>The Vendor must refine the Initial IV&amp;V Management Plan annually and provide any needed amendments and/or re-submissions as requested by the State throughout the Contract.</p> <p>At a minimum, this plan must be reviewed, updated, and submitted to DHS for its review and approval by May 15<sup>th</sup> of each year, or as otherwise directed by DHS.</p>	<p>A fifty percent (50%) 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 fifty percent (50%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>If the initial IV&amp;V Project Management Plan is not delivered sixty-one (61) calendar days after the contract's actual start date and annually within sixty-one (61) days from the required date, 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 Vendor Performance Report (VPR) maintained in AR DHS' Vendor file, and contract termination.</p>
<p><b>IV&amp;V Project Work Plan/Schedule</b></p> <p>The IV&amp;V Vendor will submit an IV&amp;V Project Schedule (in Microsoft Project and PDF) that includes all planned tasks necessary to accomplish the IV&amp;V scope of work, IV&amp;V deliverables, and activities.</p>	<p>The Project Schedule must be delivered within forty-five (45) calendar days of the contract start date, updated quarterly, and within thirty (30) calendar days of DHS approval of a Solution Vendor's</p>	<p>A fifty percent (50%) 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 fifty percent (50%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>If the initial IV&amp;V project work plan/schedule is not delivered sixty-one (61) calendar days after the</p>

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	(re)baselined schedule.	contract's actual start date, 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.

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<p><b>IV&amp;V Monthly Assessment Report</b></p> <p>The IV&amp;V Vendor must provide an IV&amp;V Monthly Assessment Report with the results of the IV&amp;V ongoing independent assessment of the AME Replacement Project.</p>	<p>The IV&amp;V Monthly Assessment Report must be submitted within sixty (60) calendar days of the contract start date and monthly thereafter no later than 5:00 p.m. CT on the Friday of the first full week of the month following the reporting period. The IV&amp;V Vendor must submit the report simultaneously to both CMS and DHS.</p> <p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria throughout the contract term as determined by AR 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. A ten percent (10%) penalty will be assessed in the following months' payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>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.</p> <p>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.</p> <p>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>
<p><b>IV&amp;V Bi-Weekly Status Report</b></p> <p>The IV&amp;V Vendor will submit an IV&amp;V Bi-Weekly Status Report that includes, at a minimum, IV&amp;V activities accomplished</p>	<p>The IV&amp;V Bi-Weekly Status Report will be submitted within forty-five (45)</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. A ten percent (10%) penalty will be assessed in the</p>

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<p>since the last report and activities planned for the next 4-week period.</p>	<p>calendar days of the contract start date and bi-weekly thereafter no later than 5:00 p.m. CT every other Tuesday.</p> <p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria throughout the contract term as determined by AR DHS.</p>	<p>following months' payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>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.</p> <p>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.</p> <p>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>
<p><b>System and Business Operations Readiness Review and Report</b></p> <p>The IV&amp;V Vendor shall conduct a system and business operational readiness review and assessment for each implementation project.</p> <p>The IV&amp;V Vendor is responsible for the</p>	<p>All findings of the ongoing testing assessments are to be reported as part of the ongoing IV&amp;V Monthly Assessment.</p> <p>An IV&amp;V System and Business</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. A ten percent (10%) penalty will be assessed in the following months' payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At</p>

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<p>assessment of all testing performed throughout the lifecycle of the projects in preparation for operational and system readiness and provides validation that the system is accurate and complete.</p> <p>The IV&amp;V Vendor shall produce a comprehensive IV&amp;V System and Business Operations Readiness Review Report.</p>	<p>Operations Readiness Review Report is due a minimum of ninety (90) calendar days before the system implementation date in the project work plan.</p> <p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria throughout the contract term as determined by AR DHS.</p>	<p>a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>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.</p> <p>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.</p> <p>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><b>Information Technology Governance Committee (ITGC) Report</b></p> <p>The Information Technology Governance Committee (ITGC) of the Governor’s Office is informed of the status of ongoing information technology projects within DHS.</p> <p>The IV&amp;V Vendor will deliver a monthly IV&amp;V report to the ITGC. The ITGC report must be a condensed, executive summary of the IV&amp;V Monthly Assessment Report.</p>	<p>The ITGC report must be submitted within 5 business days of the submission of the IV&amp;V Monthly Assessment Report.</p> <p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria throughout the contract term as determined by AR 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. A ten percent (10%) penalty will be assessed in the following months’ payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>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.</p> <p>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.</p> <p>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>
<p><b>IV&amp;V Deliverable Assessment Report (DAR)</b></p> <p>The IV&amp;V Vendor will review and submit an IV&amp;V Deliverable Assessment Report</p>	<p>DAR is due seven (7) business days from the receipt of the deliverable from the Solution</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. A ten percent (10%) penalty will be assessed in the</p>



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<p>(DAR) for each Solution Vendor deliverable.</p>	<p>vendor.</p> <p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria throughout the contract term as determined by AR DHS.</p>	<p>following months' payment if the CAP is not received within ten (10) business days. An additional five percent (5%) penalty will be assessed thereafter for every week the CAP is not received. At a minimum, the CAP must address (1) the root cause of issue(s); (2) resources and timeline to correct identified issues, and (3) quality assurance process to maintain the correction. DHS may request additional information depending on the variance of issues.</p> <p>The State will review the CAP, and reserves the right to request changes prior to its approval; the Vendor must modify the CAP within ten (10) business days of such request.</p> <p>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.</p> <p>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.</p> <p>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><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> <ol style="list-style-type: none"> <li>1. The amount of the performance bonds shall 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 shall require additional performance bond protection when a contract price is increased or modified.</li> <li>3. The additional performance bond must be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request.</li> <li>4. The contractor shall notify the State of any changes, modifications, 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.</li> </ol>	<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 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>
<p><b>Conflict of Interest Mitigation</b></p> <p>During the term of this contract, the Vendor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. The Vendor shall disclose all actual, apparent, or potential conflicts of interest to the Department of Human Services (DHS) within five (5) days of knowing 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>

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<p><b>Transition Planning</b></p> <p>Disengagement planning shall commence at least ninety (90) days prior to the IV&amp;V Vendor’s contract end date. The State may require that these services begin earlier as needed for an orderly transition. At least sixty (60) days prior to contract termination, or at a different State-specified time, the IV&amp;V Vendor shall submit a Turnover and Closeout Plan. The plan will include:</p> <ol style="list-style-type: none"> <li>1. The proposed approach to turnover</li> <li>2. Tasks and subtasks for turnover</li> <li>3. Schedule for turnover</li> <li>4. Documentation update for procedures during turnover</li> <li>5. Provisions for the delivery of all proprietary data collected and/or created during the life of the contract with DHS thirty (30) days before 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.</li> </ol>	<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 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</b> (Ark. Code Ann. §25-19-101 et seq.)</p> <ol style="list-style-type: none"> <li>1. The contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfill an Arkansas Freedom of Information Act (FOIA) request.</li> <li>2. The contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</li> <li>3. The contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A).</li> </ol>	<p>The contractor shall respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p> <p>The 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</p>	<p>For each failure to meet the performance standard, DHS may impose:</p> <ol style="list-style-type: none"> <li>a. A ten percent (10%) penalty, is assessed in the following month’s 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, is assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract</li> </ol>

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<p>The contractor shall timely and accurately respond to FOIA requests made directly to the Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements.</p>	<p>sole determination as to the sufficiency of the contractor’s response and provision of documents.</p>	<p>amount for the contract, as determined by DHS.</p> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>In addition to the above, the contractor shall be responsible for any penalties, fees, and costs imposed on DHS associated with the Vendor’s failure to timely and accurately provide the requested information and documents.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below-standard VPR in the vendor file, and contract termination.</p>

Failure to meet the minimum Performance Standards as specified **may** result in the assessment of damages.

In the event a Performance Standard is not met, the Vendor will have the opportunity to defend or respond to or cure to the satisfaction of the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the Vendor that hindered the performance of services if it is in the best interest of the State. In these instances, the State **shall** have the final determination of the performance acceptability.

Should any compensation be owed to the agency due to the assessment of damages, the vendor **shall** follow the direction of the agency regarding the required compensation process.

<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.

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