

**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.
- 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>Insurance</b>  The Contractor <b>shall</b> maintain, throughout the duration of the contract, at least the minimum level of workers' compensation insurance as required by the State of Arkansas; not less than \$1,000,000.00 in Malpractice (occurrence policy) and adequate General Liability coverage.</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 <b>shall</b> 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>Consultation</b>  The dentist <b>must</b> provide a consultation with detailed recommendations regarding dental treatment. If the client requires off-site dental treatment, the dentist <b>must</b> submit an off-site treatment request to DHS/DDS for prior approval except in emergency situations.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS <b>shall</b> be due to DHS within ten (10) business days of the</p>

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	standards for acceptable performance throughout the contract term as determined by DHS.	<p>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</b></p> <p>1. All services <b>must</b> be provided in accordance with all federal and state laws, institutional procedures, policies, guidelines, administrative orders, directives, and applicable regulations, including health insurance portability and accountability act (HIPAA) compliance.</p> <p>2. The dentist <b>must</b>:</p> <ul style="list-style-type: none"> <li>• Diagnose and treat dental issues</li> <li>• Provide a variety of dental treatment and referrals, as needed, for other specialized treatments such as orthodontia or other dental related procedures</li> </ul>	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>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 ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty</p>

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<ul style="list-style-type: none"> <li>• Prescribe medication for dental issues as needed</li> <li>• Direct and assign tasks to appropriate staff</li> <li>• Work with and provide appropriately assigned personnel such as hygienist and assistants</li> <li>• Provide professional services regarding all aspects of dental treatment, including but not limited to non-routine and complex procedures that are authorized by DDS</li> <li>• Maintain medical records that document dental services provided including all presenting problems, symptoms, diagnosis, prognosis, and treatment protocols. Contractor <b>must</b> maintain medical records at CHDC for all treatment services provided to clients.</li> <li>• Provide a safe and secure environment during treatment</li> </ul> <p>3. Services <b>must</b> be performed onsite at the CHDC for at least two (2) days per week.</p> <p>4. In case of an emergency and upon DHS/DDS request, The Contractor must provide dental treatment services.</p>		<p>(30) day period the Vendor is not in full compliance with all requirements of the contract. The ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>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>Schedule</b> All appointments <b>must</b> be scheduled in coordination with the staff at CHDC. Appointments <b>must</b> be based on the number of clients that can be seen that day. The provider <b>must</b> maintain a work schedule of at least sixteen (16) hours per week at the CHDC facility for continuity of care. Hours may vary depending on appointment.</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 <b>shall</b> 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</p>

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		<p>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>Selection/Background Investigations</b></p> <p>A. Prior to beginning any physical or verbal interaction with clients Contractor <b>must</b> have on file at each facility for all employees, consultants, subcontractor employees, Contractors, volunteer workers the following without limitation:</p> <ol style="list-style-type: none"> <li>1. A background investigation that meets or exceeds the criminal background check requirements of Arkansas Code Annotated § 21-15-101 et seq.</li> <li>2. Copies of all current licenses and/or certifications required to perform essential job functions.</li> <li>3. One completed fingerprint card.</li> </ol> <p>B. All candidates for employment at the facilities <b>must</b> undergo comprehensive pre-employment screening, conducted by the Contractor, including, but not limited to:</p> <ol style="list-style-type: none"> <li>1. Child and Adult Abuse Central Registries for the name of the prospective employee who will work at the facility. Should a prospective employee appear on either registry, Contractor <b>must</b> not employ that person in any capacity at the facility.</li> <li>2. A physical examination with documentation provided for file.</li> <li>3. A drug screening with passing documentation provided for file.</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 <b>shall</b> 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</p>

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<p>4. A tuberculosis screening as outlined in the Arkansas Tuberculosis Control Manual. Certificate of documented results <b>must</b> be provided for file.</p> <p>5. DHS follows the Arkansas Department of Health (ADH) guidelines regarding COVID protocols. Currently, Medicaid providers or vendors providing services at facilities that are receiving Medicaid funding must also comply with the Centers for Medicare &amp; Medicaid Services (CMS) vaccine mandate requirements.</p> <p>C. All such background screening results information, including the name of the prospective employee and his or her social security number, <b>must</b> be reported to DHS/DDS within five (5) working days of obtaining the information.</p>		<p>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>Payment And Invoice Provisions</b></p> <p>A. Invoices must be submitted to DHS/DDS on a monthly basis. Invoices may be submitted via email to mary.ferguson@dhs.arkansas.gov or mailed to the physical address: 150 East Siebenmorgen Rd, Conway, AR 72032</p> <p>B. Invoices must include a description of procedures and treatment provided to each client, date of service, number of worked hours per day</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 <b>shall</b> 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</p>

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		until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract
<p><b>A. 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 <b>shall</b> immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if Contractor or any of its employees, agents, or Subcontractors’ employees and agents, while performing duties under this contract, have reasonable cause to suspect that:</p> <ol style="list-style-type: none"> <li>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> </ol> <p style="text-align: center;">or</p> <ol 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> </ol> <p>A privilege or contract <b>shall not</b> prevent a person from reporting maltreatment when he or she is a mandated reporter and required to report under this section.</p> <p>An employer or supervisor of a mandated reporter <b>shall</b> not prohibit an employee or a volunteer from directly reporting maltreatment to the Hotline.</p> <p>An employer or supervisor of a mandated reporter <b>shall not</b> 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</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 future invoices until Vendor is in full</p>

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<p>employees, agents, and all Subcontractors and Subcontractor's employees and agents are mandated reporters.</p>		<p>compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>B. Conflict of Interest Mitigation</b>            During the term of this contract, the Vendor <b>shall</b> comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. The Vendor <b>shall</b> 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 <b>shall</b> develop a mitigation plan as requested by DHS which <b>must</b> be approved and accepted by DHS. Any changes to the approved mitigation plan <b>must</b> be approved in advance by DHS.</p>	<p>The Vendor <b>must</b> 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 <b>shall</b> 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 <b>shall</b> be twice the amount of the immediately preceding violation fine.</p>
<p><b>C. Transition Planning</b>            Ninety (90) days prior to the contract end date, the vendor <b>shall</b> 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 <b>shall</b> include provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) days prior to the contract end date. All proprietary data collected and/or created during the final thirty (30) days of the contract, or any proprietary data not captured in the initial delivery, <b>shall</b> be delivered to DHS no more than fifteen (15) days following the contract end date.</p>	<p>The Vendor <b>must</b> 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>
<p><b>E. Arkansas Freedom of Information Act</b> (Ark. Code Ann. §25-19-101 et seq.):</p> <ol style="list-style-type: none"> <li>Contractor <b>shall</b> cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request.</li> </ol>	<p>Contractor <b>shall</b> respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p>	<ol style="list-style-type: none"> <li>For each failure to meet performance standard, DHS may impose:           <ol style="list-style-type: none"> <li>A ten percent (10%) penalty,</li> </ol> </li> </ol>



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<p>2. Contractor <b>shall</b> timely provide all documents in its possession or control to DHS that match the request made by DHS.</p> <p>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A).</p> <p>Contractor <b>shall</b> timely and accurately respond to FOIA requests made directly to Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements. For all FOIA requests received, the Contractor shall also notify DHS of the request at <a href="mailto:DHS.FOIA@arkansas.gov">DHS.FOIA@arkansas.gov</a>.</p>	<p>Contractor <b>shall</b> provide information and documents to DHS upon request in the timeframe specified in the request one hundred percent (100%) of the time. DHS <b>shall</b> have sole determination as to the sufficiency of Contractor's response and provision of documents.</p>	<p>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</p> <p>b. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount for the contract, as determined by DHS.</p> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>In addition to the above, Contractor <b>shall</b> 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</p>

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		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.