

**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>A. Vendor shall provide Act 10 court-ordered substance abuse treatment in a residential setting to individuals committed to attend a locked down substance abuse treatment facility.</p> <ol style="list-style-type: none"> 1. Vendor shall act as a mandatory receiving facility for voluntary and involuntary commitments statewide in compliance with A. C. A. §20-64-801 et seq., the Division of Aging, Adult Behavioral Health Services, Court Systems, and the most current version of the DAABHS <i>Rules of Practice & Procedure</i>. 2. At a minimum, court-ordered services shall include: <ol style="list-style-type: none"> a. Intake; b. Individual and group therapy using evidence-based practices; c. Case Management; and d. Room and Board. 3. A unit of service is a day. Clients must be physically present at the facility for at least a part of any day billed. Exceptions require prior DAABHS approval. 4. Residential treatment must provide a minimum of twenty-eight (28) hours of structured treatment weekly. The hours shall consist of a minimum of five (5) hours daily (Monday through Friday) and a minimum of three (3) hours on Saturday and Sunday. 5. The maximum number of days of treatment for Act 10 Court-ordered commitments is twenty-one (21) days unless otherwise specified by the court. 6. Vendor shall maintain a residential substance abuse treatment facility located within the state of Arkansas with up to ten (10) beds for Act 10 court-ordered clients. 	<p>The Vendor must ensure ACT 10 court-ordered substance abuse treatment services are available at all times.</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 ten percent (10%) 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 ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract.</p>

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<p>B. Vendor must be in receipt of a court order from the courts before an Act 10 client is accepted for substance abuse treatment in their facility.</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 ten percent (10%) 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 ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including without limitation, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract.</p>
<p>C. Vendor shall be nationally accredited by the Joint Commission (TJC), Commission on Accreditation of Rehabilitation Facilities (CARF) or Council on Accreditation (COA) for the duration of the contract.</p> <ol style="list-style-type: none"> 1. Accreditation must include all appropriate substance abuse treatment service areas provided by the vendor and include all sites providing substance abuse treatment services. 2. Vendor shall provide DAABHS with copies of all correspondence related to national accreditation 	<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 ten percent (10%) 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 ten percent</p>

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<p>within five (5) business days of being sent or received. Upon completion of any survey by a national accrediting body, the Vendor must forward final reports to DAABHS immediately upon receipt.</p> <p>3. Vendor shall provide DAABHS with copies of any correspondence (e.g., letter, facsimile, email, or other) regarding ongoing communication to and from the accrediting organization within five (5) business days of the date the correspondence was sent or received. This will include national accreditation reporting requirements, including without limitation:</p> <ul style="list-style-type: none"> • Maintenance of Accreditation; or • Intra-Cycle Monitoring Profiles (if applicable based on accreditation type). <p>4. Vendor must report any adverse actions taken by national accrediting bodies, changes in accreditation status, or adverse actions taken by any other agency deemed to have regulatory oversight to DAABHS within seventy-two (72) hours of receipt of findings. A copy of the corrective action plans/actions must be sent to DAABHS within five (5) business days, once approved by the accrediting body or any other regulatory agency.</p>		<p>(10%) 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>D. Vendor shall assess clients and place them in the appropriate treatment level. Treatment shall be limited to a maximum of twenty-one (21) days unless specified by court.</p> <p>1. The Vendor shall utilize qualified personnel to complete an evaluation and required assessments to assist with appropriate care.</p> <p>2. The Vendor shall place a copy of the evaluation and assessments</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 ten percent (10%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day</p>

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<p>in the client's file at the facility. ALL assessments shall be reviewed by personnel qualified to develop and approve a comprehensive treatment plan as defined by DAABHS.</p>		<p>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>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>E. Vendor shall provide discharge planning and make confirmed referrals to appropriate aftercare services and supports. A letter shall be sent to the court and a copy to DAABHS at the completion of the court-ordered treatment period.</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 ten percent (10%) 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 ten percent (10%) 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</p>

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		Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract.
<p>F. Vendor shall implement one (1) Evidence-based Practice Treatment Modality (EBP) for Act 10 court-ordered services.</p> <ol style="list-style-type: none"> 1. All materials used must be relevant to the population served and the modality of treatment. 2. EBPs may include without limitation: <ul style="list-style-type: none"> • Matrix • Cognitive Behavioral Therapy • Living in Balance • Relapse Prevention Therapy • Family Behavioral Therapy 	<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 ten percent (10%) 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 ten percent (10%) 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>G. The Vendor shall have access to medical services, including emergency medical care, on a twenty-four (24) hour bases. If other treatment or medical care is needed, the Vendor shall refer the potential client to a facility or program to stabilize before returning to the ACT10 program. This shall be documented in the client's record and</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A ten percent (10%) penalty will be assessed in the</p>

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<p>the Court and DAABHS shall be notified.</p>	<p>term as determined by DHS.</p>	<p>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 ten percent (10%) 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>H. Vendor shall maintain client records in a fully functioning electronic health records (EHR) system. The Vendor shall demonstrate their EHR system to DAABHS staff during on-site monitoring.</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 ten percent (10%) 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 ten percent (10%) 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</p>

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		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.
I. Vendor shall cooperate with all DHS site visits and provide within ten (10) business days of request all reports and documentation requested.	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 (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>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>
J. Vendor shall notify the courts and DAABHS immediately if an Act 10 court-ordered committed client leaves the facility without permission. The sentence remains with the initial court until the courts are notified.	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for	1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.

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	<p>acceptable performance throughout the contract term as determined by DHS.</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>K. <u>Staffing</u></p> <p>1. Vendor shall maintain for the duration of the contract the following qualified staff at the facility:</p> <p>a. Clinical Director: Clinical Director must have at least one (1) year of supervisory or administrative experience in the field of substance abuse treatment.</p> <p>b. Licensed/Certified Substance Abuse Treatment Counselor(s): The Substance Abuse Treatment Counselor(s) must be available on a full-time basis.</p> <p>c. Security Officer: A security officer(s) must be provided on site twenty-four (24) hours per day. The security officer(s) shall have no other</p>	<p>Qualified staff must be available to provide the required number of treatment hours and other necessary services at all times.</p> <p>All staff delivering treatment services must be appropriately licensed and/or certified as per the most current version of the <i>DAABHS Licensure Standards for Alcohol and Other Drug Abuse Treatment Programs</i>, as required by any other regulatory agency, and/or Arkansas State Law.</p> <p>The Vendor must ensure services provided to clients are evidence-based and used to fidelity</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 ten percent (10%) 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 ten percent (10%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: DHS</p>

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<p>duties other than to provide security and shall not have patient care responsibility.</p> <p>2. Vendor shall employ staff trained in evidence-based treatment for the Act 10 program funded by DAABHS. This requirement may be met by qualified staff with additional duties.</p> <p>3. Vendor shall replace key personnel as soon as possible days in the event of staff turnover and notify DAABHS and DPSQA within ten (10) business days of the exiting staff members' final working day.</p> <p>4. Vendor shall maintain an up-to-date staff list and provide to DAABHS within ten (10) business days of request.</p> <p>5. Vendor shall have all required personnel in place prior to contract start date with licensures and certifications on hand and available for DAABHS review.</p>	<p>one hundred percent (100%) of the time. This must include all treatment staff having documented training in the selected evidenced-based curriculum within established guidelines.</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>reserves the right to impose additional penalties including 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>L. Vendor shall provide DPSQA and DAABHS with five (5) business days advance notification of any changes in management staff, contact information, site moves, site additions, or changes in ownership. New sites must be inspected and licensed by DAABHS and DPSQA before services are provided.</p>	<p>The Vendor must ensure all environments serving clients remain in full compliance with the <i>DAABHS Rules of Practice and Procedure</i> manuals, or as required by any other regulatory agency, and/or Arkansas state law one hundred (100%) of the time.</p> <p>Vendor shall report environmentally hazardous or safety-related situations to DAABHS and other regulatory agencies as expected and required.</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 ten percent (10%) 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 ten percent (10%) 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</p>

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	contract term as determined by DHS.	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>M. Reporting</p> <ol style="list-style-type: none"> 1. Vendor shall submit client information through the GovConnect Information System or other reporting systems identified by DAABHS and other regulatory agencies. 2. New client information must be submitted into the system within three (3) business days of receipt.. 3. Client information shall include without limitation: <ul style="list-style-type: none"> • Admissions reports • Environment change reports • Discharge reports • Treatment Reports • Progress Reports • Any other reports recorded in the Electronic Health Records System 4. Vendor shall adhere to any and all special reporting requirements in regard to the GovConnect Information System or other DAABHS-identified reporting system at the request of DAABHS. 	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 (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>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>Mandated Reporting 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</p>	Acceptable performance is defined as one hundred percent (100%) compliance with all	<p>For each failure to report, DHS may impose:</p> <ol style="list-style-type: none"> 1. A ten percent (10%) penalty, assessed in the

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<p>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> <ol style="list-style-type: none"> a. A child has been subjected to child maltreatment; b. A child died as a result of child maltreatment; c. A child died suddenly and unexpectedly; or d. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment. <p>or</p> <ol style="list-style-type: none"> e. An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment. <p>A privilege or contract shall not prevent a person from reporting maltreatment when he or she is a mandated reporter and required to report under this section.</p> <p>An employer or supervisor of a mandated reporter shall not prohibit an employee or a volunteer from directly reporting maltreatment to the Hotline. 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>service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>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> <ol style="list-style-type: none"> 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. <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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<p>Conflict of Interest Mitigation During the term of this contract, the Vendor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. The Vendor shall disclose all actual, apparent, or potential conflicts of interest to the Department of Human Services (DHS) within five (5) days of having knowledge of them. The Vendor shall develop a mitigation plan as requested by DHS which must be approved and accepted by DHS. Any changes to the approved mitigation plan must be approved in advance by DHS.</p>	<p>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>The Vendor will be fined one thousand dollars (\$1,000) per day for each day past five (5) days for each actual, apparent, or potential conflict of interest it fails to disclose. The Vendor shall be fined ten thousand dollars (\$10,000) for the first failure to comply with the mitigation plan developed by the Vendor and approved by DHS. Each subsequent violation of the mitigation plan shall be twice the amount of the immediately preceding violation fine.</p>
<p>Transition Planning Ninety (90) days prior to the contract end date, the vendor shall submit to DHS a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.</p> <p>The transition plan shall include provisions for the 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 the all elements of the transition are satisfied as determined by DHS.</p>
<p>Arkansas Freedom of Information Act (Ark. Code Ann. §25-19-101 et seq.):</p> <ol style="list-style-type: none"> 1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request. 2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS. 3. Contractor is subject to 	<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</p>	<ol style="list-style-type: none"> 1. For each failure to meet performance standard, DHS may impose: <ol style="list-style-type: none"> a. A ten percent (10%) penalty, assessed in the following months' payment for each failure to report. The penalty will be calculated from the total payment for the identified month in which the

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<p>Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A). 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>determination as to the sufficiency of Contractor's response and provision of documents.</p>	<p>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 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 full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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

In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to, or cure to the satisfaction of the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the

performance of services of it is in the best interest of the State. In these instances, the State **shall** have final determination of the performance acceptability.

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

ⁱ Nothing in this table is intended to set forth all obligations of the Contractor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

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