

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

Pursuant to Arkansas Code Annotated 19-11-1010 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:

Service Criteria <sup>i</sup>	Acceptable Performance	Damages for Insufficient Performance <sup>ii</sup>
<p><b>A. Services.</b></p> <ol style="list-style-type: none"> <li>1. The vendor shall furnish labor, supervision, materials, and equipment for the collection, removal, transportation, and final incineration of:               <ol style="list-style-type: none"> <li>a. Untreated Bio-medical Waste.</li> <li>b. Pathological Waste.</li> <li>c. Bio-Hazardous Waste.</li> <li>d. Contaminated Items.</li> <li>e. Microbiological Waste.</li> <li>f. Contaminated Sharps.</li> <li>g. Pharmaceutical Waste</li> </ol> </li> <li>2. Services and materials provided must comply with all applicable State and Federal laws and regulations.</li> </ol>	<p>The vendor must maintain one hundred percent (100%) compliance at all times throughout the term of the contract.</p>	<p>1st incident: A Corrective Action Plan, acceptable to the Arkansas Department of Human Services (DHS), shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A ten percent (10%) penalty shall be assessed in the following months' payments to the contractor for each thirty (30) day period the contractor is not in full compliance with these Service Criteria. The ten percent (10%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place. The total of all damage credits in any given month shall not exceed one hundred percent (100%) of the monthly invoice unless a third incident occurs for any of the Service Criteria.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including but not limited to: withholding payment on future invoices until contractor is in full compliance, a substandard Vendor Performance Report maintained in DHS' Vendor file, and contract termination.</p>
<p><b>B. Reporting.</b></p> <ol style="list-style-type: none"> <li>1. The vendor shall prepare and send to DHS an electronic data report of the Medical Waste Services provided on a monthly basis and on or before a date agreed upon by DHS. The report must identify the parties, the date of the scheduled pick-ups, the type of Medical Waste that was picked-up and destroyed, and the amount invoiced for the month. The waste service must be identified as boxes picked up and pounds requiring incineration and location of incineration. Reports are to be electronically provided to the person identified in the awarding document as the Agency Contact and or</li> </ol>	<p>The vendor must maintain one hundred percent (100%) compliance at all times throughout the term of the contract.</p>	<p>1st incident: A Corrective Action Plan, 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 shall be assessed in the following months' payments to the contractor for each thirty (30) day period the contractor is not in full compliance with these Service Criteria. The ten percent (10%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place. The total of all damage credits in</p>

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<p>Contract Administrator.</p> <p>2. The report must be clear and concise and capable of being understood by a layperson.</p> <p>3. Final details or any additional items will be determined and mutually agreed upon between agency and the vendor.</p>		<p>any given month shall not exceed one hundred percent (100%) of the monthly invoice unless a third incident occurs for any of the Service Criteria.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including but not limited to: withholding payment on future invoices until contractor is in full compliance, a substandard Vendor Performance Report maintained in DHS' Vendor file, and contract termination.</p>
<p><b>C. Pick-ups, Scheduled/Unscheduled.</b></p> <p>1. Pick-ups must be scheduled. The vendor must arrive in a timely manner for their pick-ups; no late arrivals will be accepted. Additional pickups, if requested by DHS, are to be made no later than seventy-two (72) hours after notification of need.</p>	<p>The vendor must maintain one hundred percent (100%) compliance at all times throughout the term of the contract.</p>	<p>1st incident: A Corrective Action Plan, 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 shall be assessed in the following months' payments to the contractor for each thirty (30) day period the contractor is not in full compliance with these Service Criteria. The ten percent (10%) penalty shall be calculated from the total payment for the identified month in which the deficiency took place. The total of all damage credits in any given month shall not exceed one hundred percent (100%) of the monthly invoice unless a third incident occurs for any of the Service Criteria.</p> <p>3rd incident: DHS reserves the right to impose additional penalties including but not limited to: withholding payment on future invoices until contractor is in full compliance, a substandard Vendor Performance Report maintained in DHS' Vendor file, and contract termination.</p>
<p><b>D. Transition Planning</b> Ninety (90) days prior to the contract end</p>	<p>The vendor must maintain one hundred percent (100%)</p>	<p>If the Vendor fails to meet the acceptable performance</p>

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<p>date, the vendor shall submit to the Arkansas Department of Human Services (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>compliance at all times throughout the term of the contract.</p>	<p>standard, DHS may issue a below standard Vendor Performance Report 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>

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.