

ARKANSAS DEPARTMENT OF HUMAN SERVICES
PERFORMANCE BASED CONTRACTING

Pursuant to Ark. Code Ann. 19-11-267 et. seq., the selected contractor shall comply with performance-based standards. Following are the performance-based standards that will be a part of the contract and with which the contractor must comply for acceptable performance to occur under the contract.

- I. The contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the contractor or to the contractor's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Except as otherwise required by law, the contractor agrees to hold the contracting Division/Office harmless and to indemnify the contracting Division/Office for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the contracting Division/Office may sustain as a result of the contractor's performance or lack of performance.
- III. During the term of the contract, the division/office will complete sufficient performance evaluation(s) to determine if the contractor's performance is acceptable. The damages set forth below are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.
- IV. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards and may include the input of the vendor so as to establish standards that are reasonably achievable.
- V. The contract program deliverables and performance indicators to be performed by the contractor are:

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<p>Service Delivery Location Work must be performed by the Contractor at his/her place of business or at the secure location where the client is currently located. Any services performed by telemedicine shall be pre-approved by DHS/DAABHS. All services must be provided in a timely manner as determined by DHS. Dates and times for evaluations must be coordinated with the individual or agency providing the secure location for the individual. The Contractor shall give the agency immediate notice of any delays, or anticipated delays that will affect the service delivery requirement.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p>Services must be provided in accordance with the American Academy of Psychiatry and the Law (AAPL) Practice Guidelines and must be provided by a Qualified Psychiatrist or Qualified Psychologist, as defined by DHS/DAABHS. All services, which include report submission, must be completed within established timeframes or as otherwise required by DAABHS.</p> <p>Contractor shall notify DHS/DAABHS of any changes in the business entity which include but are not limited to any changes that effect the performance of services, change of the entity's structure or organization, business entity existence, name change of the business, new location of the business, new telephone</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total</p>

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<p>numbers, new email addresses, changes impacting licensure, and new contact person for this contract.</p>		<p>payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p>Referrals</p> <p>1. Services are contingent upon a judge ordering an evaluation to determine if there are concerns regarding the competency, responsibility, and/or capacity of an individual to proceed within the criminal justice system. Based upon the order, an initial Act 327 or Act 328, or subsequent Act 310 evaluation as defined in Arkansas Code Annotated (ACA) §§ 5-2-301 through 52-329 must be performed by a qualified Psychiatrist or a Qualified Psychologist.</p> <p>2. When DHS/DAABHS identifies the emergent need for assistance in completing forensic evaluations, the Contractor will be contacted directly by DHS/DAABHS staff with referrals. Contractor shall accept referrals directly from DHS/DAABHS without limitation, contingent upon contract funding.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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<p>Availability</p> <p>1. Contractor shall provide and maintain a flexible schedule to ensure scheduling and evaluation occur timely. Appropriate flexibility may include, when necessary, scheduling face-to-face evaluations outside of normal business hours (nights, weekends, holidays, etc.), coordinating schedules with staff at jails or other secure facilities, coordinating schedules with interpreters, court appearances, and any other situations that may require flexibility. DHS/DAABHS reserves the right to utilize other contractors when a contractor's schedule is determined by DHS/DAABHS to be too restrictive.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p>Scheduling</p> <p>1. Contractor must schedule forensic evaluation for each DHS/DAABH referral within five (5) business days of receiving referral.</p> <p>2. In the event of two (2) failed attempts to provide services to a client, Contractor must submit a written notice to the DHS/DAABHS Forensics Director specifically identifying attempts made, dates, and reasons for unsuccessful attempts to schedule or complete an evaluation. Contractor shall proceed as directed by DHS/DAABHS.</p> <p>3. Contractor shall notify DHS/DAABHS in writing if an appointment cannot be</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total</p>

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<p>completed for any reason.</p> <p>4. Contractor must complete the evaluation within the established timeframe, which is currently within forty-five (45) days of the court order, unless otherwise specified and agreed upon by DHS/DAABHS.</p>		<p>payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p>Forensic Evaluation</p> <p>1. Contractor shall conduct a Forensic Evaluation via a clinical, face-to-face interview.</p> <p>2. If necessary, DHS/DAABHS will provide a court certified interpreter that must be utilized during Forensic Evaluations.</p> <p>3. An evaluation performed by telemedicine shall be pre-approved by DAABHS and the circumstance must include the individual undergoing evaluation being currently located in a secure, controlled environment.</p> <p>4. Forensic Evaluations must be conducted and completed within forty-five (45) calendar days of the signed court order. Contractor shall notify DHS/DAABHS if an appointment cannot be fulfilled for any reason.</p> <p>5. Contractor shall use multiple methods of data gathering, including but not limited to, face-to-face clinical interviews, observation, records reviews, and/or psychological testing that are sufficient to appropriate and adequately substantiate its findings. Contractor must also review all relevant law enforcement or other legal reports prior to determining their final opinion for the evaluation.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and</p>

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<p>Results</p> <ol style="list-style-type: none"> 1. Contractor shall produce, within the required timeframes, a diagnosis and detailed report substantiating the final written opinion of the evaluator and any other information required under Ark. Code Ann. § 5-2-301 et. seq. (currently, Act 327, Act 328, and Act 310 Forensic Evaluation). 2. Contractor shall immediately inform DHS/DAABHS when there is a question concerning the appropriateness of a DHS/DAABHS referral or if any circumstance arise which will prevent the evaluation and/or report from being completed within established guidelines. 3. Contractor must submit the type-written results of the Forensic Evaluation to the DHS/DAABHS Program Manager within forty-five (45) calendar days of the court order. 4. Contractor shall provide a written summary of the findings and determination contained in the evaluation report. The written summary must contain all elements, relevant to the particular Forensic Evaluation, required by the applicable Arkansas law. 5. Contractor shall provide specific reasoning in a letter to the court and submit the case file for DHS/DAABHS to review for the deferral of any answers to legal questions required. 6. DHS reserves the right to request review of any Forensic Evaluation prior to its submission to the court. 	<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>contract termination.</p> <p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p>Court Testimony</p> <ol style="list-style-type: none"> 1. Contractor must provide expert court testimony concerning the forensic Evaluation upon request by DHS or as required by the court. 2. Contractor must independently bill for expert testimony for each court appearance in a case. 	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be</p>

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<p>Records</p> <p>1. Contractor shall maintain records documenting the total number of recipients and names (or unique identifiers) of recipients whom services were provided and the dates the services were provided so that an audit trail documenting service provision can be maintained. All records must be kept in a secure location as required by DHS/DAABHS.</p> <p>2. Any documents containing client protected health information shall be submitted to DHS/DAABHS in a secure format.</p> <p>3. Additional data may be requested by DHS/DAABHS in relation to state or federal reporting requirements at any time.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties</p>

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Insurance Requirements The Contractor must obtain and maintain current insurance from an insurance company authorized to do business in the State of Arkansas prior to rendering services. Certificates evidencing the effective dates and amounts of the following insurance coverage must be provided to DAABHS: 1. Workers Compensation: As required by the State of Arkansas 2. Commercial Blanket Bond in the amount of the contract 3. Comprehensive: General Public Liability: Minimum amount shall be the cost of the contract	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.	1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request. 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. 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.
Confidentiality Contractor shall provide for physical and electronic security of all Protected Health Information generated or acquired by the contractor in implementation of the contract, in compliance with Health Insurance Portability and Accountability Act (HIPAA) and the Health Information	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as	1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request. 2nd incident: A five percent

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<p>Technology for Economic and Clinical Health (HITECH) Act, and consistent with the Business Associate Agreement executed between the parties. Prior to award, contractor must complete the Business Associate Agreement.</p>	<p>determined by DHS.</p>	<p>(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>Payment and Invoicing</p> <p>A. All invoices shall be forwarded to: Arkansas Department of Human Services, Division of Aging, Adult, and Behavioral Health Services PO Box 1437, Slot W241 Little Rock, AR 72203-1437</p> <p>B. Invoice forms will be developed by DHS/DAABHS and will be provided to the Contractor. Submission of invoices must be done on the DHS/DAABHS approved invoice form. Invoices shall be submitted for all completed evaluations no later than the fifteen (15th) of the month following the month in which the evaluation was completed.</p> <p>C. All invoices shall be accompanied with the completed report with data elements identified by DHS/DAABHS. Invoices shall be submitted in the manner and format designated by DHS/DAABHS.</p> <p>D. The vendor shall invoice DHS/DAABHS for each completed</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>Invoices no more than thirty (30) calendar days late will result in a 10% penalty on the total amount of that monthly invoice. Invoices no more than sixty (60) calendar days late will result in a 20% penalty on the total amount of that monthly invoice.</p> <p>Invoices no more than ninety (90) calendar days late will result in a 50% penalty on the total amount of that monthly invoice.</p> <p>Invoices more than ninety (90) days late will be referred to the Claims Commission.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties</p>

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<p>Forensic Evaluation separately. The Contractor's Purchase Order Number and/or the Contract Number should be referenced on each invoice.</p>		<p>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>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 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 child has been subjected to child maltreatment; A child died as a result of child maltreatment; A child died suddenly and unexpectedly; or 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"> 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.</p> <p>An employer or supervisor of a</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>For each failure to report, DHS may impose:</p> <ol style="list-style-type: none"> 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 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>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>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. Final payment may be withheld from the vendor until all elements of the transition are satisfied as determined by DHS.</p>
<p>Arkansas Freedom of Information</p>	<p>Contractor shall</p>	<p>1. For each failure to</p>

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<p>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 Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A). <p>Contractor shall timely and accurately respond to FOIA requests made directly to Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements.</p>	<p>respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p> <p>Contractor shall provide information and documents to DHS upon request in the timeframe specified in the request one hundred percent (100%) of the time. DHS shall have sole determination as to the sufficiency of Contractor's response and provision of documents.</p>	<p>meet performance standard, DHS may impose:</p> <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 deficiency took place; or 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>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</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.

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.