

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 Contractor must comply for acceptable performance to occur under the contract.

- I. Contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to Contractor, Contractor's agents, employees, and the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Except as otherwise required by law, Contractor agrees to indemnify and hold harmless 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 Contractor's performance or lack of performance.
- III. During the contract term, the Division/Office will complete sufficient performance evaluations to determine if 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 contract term, should the State determine it is in its best interest. Any changes or additions to Performance Standards will be made in good faith following acceptable industry standards and may include Contractor's input so as to establish reasonably achievable standards.
- V. The contract program deliverables and performance indicators to be performed by Contractor are:

Service Criteria ⁱ	Acceptable Performance	Damages for Insufficient Performance ⁱⁱ
<p>Staffing</p> <p>Contractor shall designate a customer service manager to oversee service operations including, without limitation, organizing tasks, scheduling appointments, and communicating with DHS.</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> <ul style="list-style-type: none"> • Customer service manager or designee available throughout the contract duration. • Notify DHS within twenty-four (24) hours of any changes to the designated customer service manager. • Qualified interpreters and translation services must be available during normal business hours and after-hours and on weekends upon DHS request one hundred percent (100%) of the time throughout the contract duration. 	<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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The ten percent (10%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>3rd Incident: A twenty percent (20%) penalty will be assessed in the following months' payment to Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The twenty percent (20%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 contract termination.</p>
<p>Telephone Communications</p> <p>Contractor must maintain for the duration of the contract, an operational United States phone number to be contacted for access to services.</p>	<p>Acceptable performance is defined as:</p> <ul style="list-style-type: none"> • Direct telephone number for customer service manager is available one hundred percent (100%) 	<p>1st Incident: An acceptable CAP 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>of the time throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Calls left on voice message system returned by the next business day ninety-eight percent (98%) of the time throughout the contract term as determined by DHS. • Calls answered or transferred to a message system within five (5) rings ninety-eight percent (98%) of the time throughout the contract terms as determined by DHS. • Messages left during normal business hours returned within thirty (30) minutes ninety-eight percent (98%) of the time throughout the contract terms as determined by DHS. 	<p>assessed in the following months' payment to Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Video Conferencing</p> <p>The interpreter and/or translator providing services remotely must have video conferencing equipment to maintain high-quality audio and video. The equipment required for video conferencing must include, without limitation, the following: computer, high resolution webcam, microphone, speakers, stable internet connection, video conference software or app (i.e., Zoom, Webex, Microsoft Teams).</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Audio and video conference equipment is maintained and provides high-quality remote communication capabilities. • Video conferences conducted over Zoom, Webex, and Microsoft Teams do not exceed sixty (60) minutes in duration. 	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>DHS reserves the right to impose additional penalties including, without limitation, withholding payment on future invoices until Vendor</p>

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		is in full compliance, maintaining a below standard VPR in the vendor file, and contract termination.
<p>Interpreter Services</p> <p>Contractor shall provide a qualified Marshallese language interpreter within two (2) hours of the time of request, unless otherwise agreed upon.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Interpret in a clear and comprehensible manner. • Ensure clients understand questions, instructions, and other information transmitted by DHS. • Interpreter provided within two (2) hours of request unless otherwise agreed upon. 	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Translation Services</p> <p>Contractor shall provide translation, proofing, and editing of documentation and materials by qualified and experienced translators, and output in the media format requested by DHS.</p>	<p>Acceptable performance is defined as ninety-eight percent (98%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <p>Translated materials are accurate and error free:</p> <ul style="list-style-type: none"> • grammatically correct • correct punctuation • professionally written • spelled correct • translated to retain the original meaning of the 	<p>1st Incident: An acceptable CAP shall be due to DHS within ten (10) business days of the request.</p> <p>2nd Incident: In the event Contractor's translation is found to be incorrect, Contractor assumes one hundred percent (100%) of the financial liability for the correction of inaccuracies.</p> <p>DHS reserves the right to impose additional penalties including without limitation, withholding payment on future invoices until Vendor</p>

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	<p>text</p> <ul style="list-style-type: none"> • neatly formatted • print ready and returned in the format requested by DHS • accurate • complete • consistent • high quality <p>Translated documents are returned within five (5) business days of receipt unless otherwise agreed upon by DHS.</p> <p>Zero (0) unauthenticated claims of inaccuracy.</p>	<p>is in full compliance, maintaining a below standard VPR in the vendor file, and contract termination.</p>
<p>Scheduling</p> <p>Services must be available as requested during normal business hours. Normal business hours are defined as Monday – Friday, 8:00 am – 5:00 pm CT.</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> <ul style="list-style-type: none"> • Pre-schedule appointments in Central Time. • Arrive on time for scheduled appointments. • Keep accurate records of appointments. • Allow a fifteen (15) minute grace period to clients for scheduled appointments. 	<p>1st Incident: An acceptable CAP shall be due to DHS within ten (10) business days of the request.</p> <p>2nd Incident: Contractor shall reimburse DHS for two (2) hours at the hourly rate for failure to attend scheduled appointments. The reimbursement amount will be deducted from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Professionalism</p> <p>Personnel providing services must wear appropriate attire for the environment and consistently convey professional appearance and behavior.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: An acceptable CAP 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</p>

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		<p>months' payment to Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Contractor Cancellations</p> <p>All call-in(s) or cancellation(s) by Contractor's staff must be communicated to the DHS requestor a minimum of two (2) hours prior to the start of a scheduled assignment.</p>	<p>Acceptable performance is defined as: one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Call-in(s) or cancellations by Contractor's staff communicated to DHS at least two (2) hours prior to the scheduled appointment one hundred percent (100%) of the time throughout the contract term as determined by DHS. • Provide a replacement interpreter or translator ninety-eight percent (98%) of the time upon DHS request throughout the contract term as determined by DHS. 	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>3rd Incident: A twenty percent (20%) penalty will be assessed in the following months' payment to Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The twenty percent (20%) penalty will be calculated from the total months' payment in which the deficiency took place. DHS reserves the right to impose additional penalties</p>

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<p>Privacy and Security</p> <p>Contractor shall ensure and maintain compliance with the most current version of Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH), The Privacy Act of 1974, Arkansas Personal Information Protection Act (Ark. Code Ann. § 4-110-104), and other Federal and State privacy and security standards.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Ensure and maintain compliance • Disclose any breaches of privacy or security • Use protected health information in a confidential manner • Safeguard use and disclosure of and restrict access to protected health information and other confidential information. 	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Reporting</p> <p>Contractor shall submit written reports during the contract term. The report format shall be determined in cooperation with DHS.</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: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which</p>

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		<p>the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Insurance Requirements</p> <p>Contractor must obtain and maintain insurance policies throughout the contract term.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <ul style="list-style-type: none"> • Insurance limits as specified in the IFB are maintained throughout the duration of the contract term. • Notify DHS no less than forty-five (45) days in advance of any non-renewal, cancellation, or expiration of Contractor's policy. • Provide a "Certificate of Insurance" upon request by DHS. 	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months' payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Criminal Background Checks</p> <p>Contractor must perform criminal background checks on all proposed staff members. Pursuant to those background checks, no staff member shall be staffed on this project if they have committed an offense that would preclude State employment as a "designated position," if applicable to the underlying contracted services, under Ark. Code Ann. § 21-15-102 or otherwise as a "designated financial</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all</p>

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<p>or information technology position” pursuant to Ark. Code Ann. § 21-15-111.</p>		<p>contract requirements. The five percent (5%) penalty will be calculated from the total months’ payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Payment and Invoicing</p> <p>All invoices shall be forwarded to the designated DHS staff. Contractor must index each instance of service to the requesting DHS Division or Office.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with these service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <p>Invoices are submitted by the fifth (5th) day of each month.</p> <p>Invoices must include the specific purchase order number for the utilizing Division or Office.</p> <p>Invoices include the number of minutes spent performing interpretation services and the number of words translated.</p> <p>Reimbursable travel expenses are approved in advance by DHS and supporting documentation showing mileage information is submitted with the associated invoice.</p>	<p>1st Incident: An acceptable CAP 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 Contractor for each thirty (30) day period Contractor is not in full compliance with all contract requirements. The five percent (5%) penalty will be calculated from the total months’ payment in which the deficiency took place.</p> <p>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 VPR in the vendor file, and contract termination.</p>
<p>Mandated Reporting</p> <p>Pursuant to Ark. Code Ann. §§ 12-18-402 (b)(10) and 12-12-1708(a)(1)(AA),</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and</p>	<p>For each failure to report, DHS may impose:</p> <p>1. A ten percent (10%)</p>

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<p>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 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 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>standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>penalty, assessed in the following months' payment for each failure to report. The penalty will be calculated from the total months' payment in which the deficiency took place; or</p> <ol style="list-style-type: none"> 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, as determined by DHS. <p>DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>DHS reserves the right to impose additional penalties including, without limitation, requiring a CAP, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard VPR in the vendor file, and contract termination.</p>

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<p>Conflict of Interest Mitigation</p> <p>Vendor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. Vendor shall disclose all actual, apparent, or potential conflicts of interest to DHS within five (5) days of having knowledge of them. 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>Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the contract term.</p>	<p>Vendor will be fined one thousand dollars (\$1,000) per day for each day past five (5) for each actual, apparent, or potential conflict of interest it fails to disclose. Vendor shall be fined ten thousand dollars (\$10,000) for the first failure to comply with the mitigation plan developed by 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</p> <p>Ninety (90) days prior to the contract end date, 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>Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the contract term.</p>	<p>If Vendor fails to meet the acceptable performance standard, DHS may issue a below standard VPR maintained in the vendor file.</p> <p>Final payment may be withheld from Vendor until all elements of the transition are satisfied as determined by DHS.</p>
<p>Arkansas Freedom of Information Act (FOIA) (Ark. Code Ann. § 25-19-101 et seq.):</p> <p>Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil a FOIA request.</p> <p>Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</p> <p>Contractor is subject to FOIA pursuant to Ark. Code Ann. § 25-19-103(7)(A).</p>	<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 determination as to the sufficiency of Contractor's response and provision of</p>	<p>For each failure to meet the performance standard, DHS may impose:</p> <p>A ten percent (10%) penalty, assessed in the following months' payment for each failure to report. The penalty will be calculated from the total months' payment in which the deficiency took place; or</p> <p>A one percent (1%) penalty, assessed in the next</p>

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<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. For all FOIA requests received, Contractor shall also notify DHS of the request at DHS.FOIA@arkansas.gov.</p>	<p>documents.</p>	<p>payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount, as determined by DHS.</p> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>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>DHS reserves the right to impose additional penalties including, without limitation, requiring a CAP, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard VPR in the vendor file, and contract termination.</p>

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

In the event a Performance Standard is not met, Vendor will have the opportunity to defend, respond to, or cure to the insufficiency to the satisfaction of the State. The State **may** waive damages if it determines there were extenuating factors beyond Vendor's control 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 Contractor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

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