

ARKANSAS DEPARTMENT OF HUMAN SERVICES
PERFORMANCE BASED CONTRACTING
Occupational and Physical Therapy-AHDC
710-25-076

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:

Service Criteria ⁱ	Acceptable Performance	Damages for Insufficient Performance ⁱⁱ
<p><u>Occupational and Physical Therapy Services and Treatment</u></p> <ol style="list-style-type: none"> 1. Individuals determined to need occupational and physical therapy services must be provided direct therapy according to planned therapy programs prescribed by the Occupational/Physical Therapist and approved by the Interdisciplinary Team. 2. The Occupational/Physical Therapist(s) shall provide direct therapy and supervise indirect therapy through staff members and/or parents involved with the clients. 3. The Therapist must provide training and supervision to AHDC staff involved in the care of residents receiving these services. Training must include, without limitation, the following: <ol style="list-style-type: none"> a. Therapy techniques b. Interventions and techniques to restore, maintain, and prevent regression in residents 4. The Contractor must provide emergency on-call occupational therapy services as requested by the AHDC. 5. Services must be provided at the frequency stated in the individual's schedule and as stated in the individual's program plan (IPP). 6. Modifications to services based on the individual's condition or needs must be prescribed and performed by the Occupational/Physical Therapist(s). 7. Clients must receive services from the same occupational/physical therapist throughout the duration of the 	<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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>In addition to the above penalties, 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>

Service Criteria ⁱ	Acceptable Performance	Damages for Insufficient Performance ⁱⁱ
<p>contract unless otherwise approved by AHDC.</p> <p>8. The Contractor must provide approximately 1040 hours of occupational and physical therapy annually to individuals served at AHDC. Contractor's schedule must be approved by the AHDC Superintendent.</p>		
<p><u>Training</u> Contractor must train AHDC staff involved in the care of the resident(s) served through therapy techniques as requested by the AHDC. Contractor provided trainings must emphasize interventions and techniques to restore, maintain, and prevent regression of physical/cognitive function of the patient/residents. Contractor shall consult with staff to plan appropriate activities/exercises, self-help skills, and use of special rehabilitation equipment.</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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>In addition to the above penalties, 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</p>

Service Criteria ⁱ	Acceptable Performance	Damages for Insufficient Performance ⁱⁱ
		Performance Report (VPR) in the vendor file and contract termination.
<p><u>Evaluations</u></p> <ol style="list-style-type: none"> 1. The OT/PT must conduct evaluation for all individuals determined to need occupation therapy services through the initial or annual screenings. 2. The Therapist shall complete an evaluation on each individual within fourteen (14) calendar days of receiving the referral. The OT/PT(s) must provide the following services: <ol style="list-style-type: none"> a. Administer any needed testing, b. Complete the interpretation, c. Recommend a course of treatment, and d. Provide a report summarizing the finding of the evaluation. 3. Therapy plans must be developed in conjunction with each individual's Interdisciplinary Team in compliance with ICF/IID regulations and CARF standards. 4. The OT/PT shall conduct monthly client evaluations. Results of monthly evaluations must be sent to the Medical Department. 5. Annual Evaluations <ol style="list-style-type: none"> a. All individuals receiving services must be evaluated annually by the Occupational/Physical Therapist(s). b. Annual evaluations must include written staff training plans as approved by the therapist and propose short-term and long-term goals and objectives in terms of developmental 	<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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>In addition to the above penalties, 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>programming and support to enable the individual to adapt to the environment.</p> <p>c. Annual evaluation documentation must be maintained in the individual's permanent record and will be reviewed annually by the Interdisciplinary team.</p> <p>d. Annual evaluations must be submitted for review by the Interdisciplinary Team at least eight (8) business days prior to the individual's annual review.</p>		
<p><u>Reporting Requirements</u></p> <p>1. Annually and according to deadlines agreed upon by AHDC, the OT/PT(S) shall generate, in compliance with ICF/IID regulations and CARF standards, reports containing the following documentation:</p> <ol style="list-style-type: none"> Progress reports, Treatment plans, short-term goals and objectives, Long-range goals and objectives, Discharge planning, and Demonstrated need for the person to continue services. Long-range goals and objectives, Discharge planning, and demonstrated need for the person to continue services. <p>2. OT/PT must develop and maintain an IPP record of all therapist services that meet ICF/MR regulations ICF standard W319.</p> <p>OT/PT must immediately report incidents in accordance with DHS Policy 1090 and other applicable federal and state laws and regulations.</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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p>

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<p><u>Meetings</u> The OT/PT(s) shall attend the following as requested by the AHDC:</p> <ol style="list-style-type: none"> 1. Initial Individual Program Planning sessions, 2. Special Interdisciplinary Team meetings, 3. Medical staff meetings, and 4. Conferences as required by the AHDC. 5. Discharge planning for all individuals who have received direct and indirect therapy services and are being charged from the AHDC. 	<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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the</p>

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<p><u>Additional Specifications</u></p> <ol style="list-style-type: none"> 1. OT/PT must perform all services as specified by the AHDC, in accordance with all Federal, State, institutional procedures, policies, guidelines, administrative orders, directives and applicable regulations, including: <ol style="list-style-type: none"> a. Health Insurance Portability and Accountability Act (HIPAA) compliance as applicable to the AHDC. b. Intermediate Care Facility for individuals with intellectual disabilities (ICF/IID) c. The Commission on Accreditation for Rehabilitation Facilities (CARF) accreditation standards. d. Business Associate Agreement 2. Contractor must maintain all licensing requirements as established by the State of Arkansas throughout the contract period. The OT/PT(s) must immediately notify the AHDC administrator of any changes in OT/PT licensure. 3. The OT/PT(s) shall participate in the AHDC new employee orientation program prior to the provision of services. 4. The OT/PT(s) shall provide the facility with a copy of his or her criminal background check, drug 	<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 \$250 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>3rd incident and above: A \$500 penalty will be assessed for Insufficient Performance. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Vendor.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, withholding payment on future invoices until Vendor is in full compliance,</p>

<p>screening, and TB skin test. The OT/PT(s) must be cleared for work at the AHDC prior to his or her attendance at orientation.</p>		<p>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> <ul 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> <ul 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.</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,</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> <ul 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>

<p>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>Performance Bonding The Contractor shall be required to obtain performance bonds to protect the State's interest as follows:</p> <ol style="list-style-type: none"> 1. The amount of the performance bonds shall be one hundred percent (100%) of the annual contract price, unless the State determines that a lesser amount would be adequate for the protection of the State. 2. The State shall require additional performance bond protection when a contract price is increased or modified. 3. The additional performance bond must be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request. <p>The contractor shall notify the State of any changes, modification, or renewals for the performance bond during the term of the contract. The performance bond documentation must be provided to the State with each required notice.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with Service Criteria at all times throughout the contract term as determined by DHS.</p>	<p>Damages shall be one percent (1%) per day, calculated using the annual contract amount, for each day Vendor fails to meet the Performance Bonding Requirements specified in Service Criteria.</p> <p>In addition, Vendor's continued failure to meet Service Criteria, may result in a below standard Vendor Performance Report (VPR) maintained in the vendor file and contract termination.</p> <p>Failure to provide is a breach of contract and may result in immediate contract termination.</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</p>

		subsequent violation of the mitigation plan shall be twice the amount of the immediately preceding violation fine.
<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 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 Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A). 4. 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, the Contractor shall also notify DHS of the request at DHS.FOIA@arkansas.gov. 	<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 documents.</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 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 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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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.