

ARKANSAS DEPARTMENT OF HUMAN SERVICES
PERFORMANCE BASED CONTRACTING
710-24-083 PT Services

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>The Contractor must provide direct and indirect physical therapy services by three (3) licensed physical therapist and one (1) physical therapist assistant during normal business hours at the Conway Human Development Center (CHDC) to ensure continuity of care. Physician's/APRN's orders shall be required before the PT can provide any services to patients.</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>Physical Therapist:</p> <ol style="list-style-type: none"> 1. The physical therapist must attend all initial Individual Program Planning (IPP) sessions and provide written input to the Program Coordinator. The physical therapist must confirm that input has been documents in the client's IPP. 2. The Physical Therapist must complete an evaluation for individuals identified by PT to need PT direct or indirect services or support at least fourteen (14) days prior to the individual's annual staffing. An annual evaluation shall include written plans for 	<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</p>

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<p>staff training as approved by the Physical Therapist. The written plan will include as needed proposed objectives in terms of developmental programming and the staff support needed to enable the individual to adapt to his or her environment.</p> <p>3. The PT must provide ongoing physical therapy staff training. The PT must monitor all staff that provides direct communication training services.</p> <p>4. The PT must provide monthly orientation and training for professional and nonprofessional staff in the prescribed therapy treatment methods and educational techniques. The PT shall determine each individuals' specific program needs and consult with staff to plan appropriate activities, exercises, self-help skills and use of special rehabilitation equipment.</p> <p>5. The PT must participate in discharge planning sessions as indicated and provide written input for the individual's discharge plan as required by ICF standard W271.</p> <p>6. The PT must supervise the Physical Therapy Orthotics workshop and assist with the specialized seating clinics. This supervision includes but is not limited to: recommending staff for hire and other personnel actions, including termination, requesting purchases for the Orthotics Shop for all needed supplies, assisting with all client's seating needs and providing consultation for any seating issues that arise.</p> <p>7. The PT must chair the Fall Prevention Committee, organizing a multi-disciplinary team that will convene under his/her direction as needed for review and recommendations to prevent falls within the facility. The PT must perform Fall Assessments and review all client falls within the facility and provide appropriate recommendations for fall prevention. The PT must draft appropriate fall prevention policy and trainings for the facility.</p> <p>8. The PT must draft and train all facility staff on safe lifting guidelines and policy. PT must assess all facility clients for lifting</p>		<p>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>requirements and request for purchase appropriate mechanical lifts, slings, or other specialized equipment as needed.</p> <p>9. The PT must assess all facility client's initially and as needed for appropriate seating position during eating. The PT must draft an individualized "Eating Plan" for all facility clients that addresses required seating needs and any needed specialized equipment or environmental modification to decrease risk of choking/aspiration and support independence.</p> <p>10. The PT must participate as an active member in the facility's multi-disciplinary Dysphagia and Skin Integrity Committees.</p> <p>11. The PT must assist and provide consultation with on-grounds client Wound and Podiatry clinics.</p> <p>12. The PT must round daily (Mon-Fri) and provide PT consultation on facility clients residing in the facility's infirmary.</p> <p>Physical Therapist Assistant:</p> <p>1. The practice of the PTA shall be performed only under direct on-site supervision by a licensed PT. The PT shall retain moral, ethical, and legal responsibility for patient care. In direct consultation with the (supervising) PT, the PTA may:</p> <ul style="list-style-type: none"> • Recommend changes in the treatment, plan of care, or goals as appropriate. • Within the plan of care, recommend appropriate equipment, assistive devices, or modification of architectural barriers. • Within the plan of care, perform appropriate examination procedures. • Alter treatment in response to adverse changes in the patient's physiological state. <p>2. The PTA may provide direct supervision of a Physical Therapy Aide. However, the PT shall retain moral, ethical, and legal responsibility for patient care.</p> <p>3. The PTA may provide training to the Physical Therapy Aide regarding treatment plans that will be performed with direct on-site supervision of the PT or PTA.</p>		

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<p>4. The PTA shall perform active treatments as instructed by the PT.</p> <p>5. The PTA must communicate with the PT on a regular basis regarding progress or change in patient's status.</p> <p>6. The PTA shall regularly monitor the condition and fit of modified wheelchairs and adaptive equipment providing information to the PT for consideration.</p> <p>7. The PTA shall provide in-service training to caregivers to include new hire orientation training (Phase I and Phase II training).</p>		
<p>COMPLIANCE</p> <p>1. Physical therapy services shall comply with Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) regulations and the Commission on Accreditation of Rehabilitation Facilities (CARF) standards.</p> <p>2. The PT must also provide any administrative services required under state laws governing Long-Term Care Facilities and DHS/DDS policies.</p> <p>3. The PT has no authority to initiate purchasing of any goods or equipment but shall be responsible for requesting the same from the HDC Superintendent or designee in a timely manner so as not to disrupt service to patients.</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</p>

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		Performance Report (VPR) in the vendor file and contract termination.
<p>LICENSURE & CERTIFICATION</p> <p>The Contractor must maintain a current, valid licensure for physical therapist(s) and the physical therapist assistant throughout the duration of the contract and shall be provided upon DHS request. The Contractor shall immediately notify CHDC administrator of any changes in licensure.</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>SCHEDULE</p> <p>The PT and/or PTA shall provide direct physical therapy at the frequency stated in the individual's 24-hour schedule and as stated in the IPP. Based on the individual's condition and needs, the PT and/or PTA must modify the prescribed services in the IPP and provide the planned services as prescribed. At the request of the Interdisciplinary team, the PT must re-evaluate the designated individual and</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance</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</p>

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<p>prescribe therapy based on the reevaluation. At least once a month the PT shall report the individuals' progress towards meeting stated therapy objectives. The PT must document and maintain the individual records of all persons receiving physical therapy services as required by the facility to meet ICF/IID standards.</p> <p>Services shall be provided as follows: approximately 2,080 hours annually for each PT and PTA.</p>	<p>throughout the contract term as determined by DHS.</p>	<p>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>EVALUATION</p> <ol style="list-style-type: none"> 1. The PT shall perform an evaluation on each physician/APRN-referred patient. Within fourteen (14) calendar days of receiving the referral, the PT must provide the following services: <ul style="list-style-type: none"> • Administer any needed testing. • Complete the interpretation. • Recommend a course of treatment. • Provide a report summarizing the findings of the evaluation. 2. Physical therapy plans shall be developed with each person's primary physician's/APRN's approval. 	<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>

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<p>TRAINING</p> <p>The PT must train HDC staff involved in the care of the resident(s) served through physical therapy techniques emphasizing interventions and techniques to restore, maintain, and prevent regression of physical/cognitive function of the patient/residents.</p> <p>The PTA must provide in-service training to caregivers to include new hire orientation training (Phase I and other requested training).</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</p>

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<p>REPORTING REQUIREMENTS</p> <p>1. The PT shall generate, in compliance with ICF/IID regulations and CARF standards, the following documentations:</p> <ul style="list-style-type: none"> • Progress reports, • Treatment plans, • Short-Term goals and objectives, • Long-Range goals and objectives, • Discharge planning, and show demonstrated need for the person to continue services. <p>2. Such records shall remain the property of the HDC.</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>(VPR) in the vendor file and 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>PARTICIPATION</p> <p>1. PT shall attend initial Individual Program Planning sessions, medical staff meetings, and conferences as required by the HDC. Costs associated with required attendance at conferences are to be covered by the HDC.</p> <p>2. The PT and the PTA shall participate in the HDC new employee orientation program prior to the provision of services.</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</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'</p>

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<p>INSURANCE</p> <p>A. Prior to contract award, the Contractor must furnish an approved "Certificate of Insurance" and must maintain the insurance Requirements throughout the contract and any/all extensions. The insurance shall not be modified without DHS approval.</p> <p>B. The Contractor shall maintain insurance for the contract period and any resultant renewals in the minimum amount:</p> <ul style="list-style-type: none"> • \$1,000,000 per occurrence general liability; and • \$3,000,000 aggregate, for professional liability, negligence, errors and omissions and public liability. <p>C. The insurance must have limits sufficient to cover losses resulting from or arising out of: Contractor's action or inaction in the performance of the contract by the Contractor, its agents, servants, and/or employees.</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>

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<p>D. The insurance shall cover and continue to cover all occurrences during the term of this contract and any extensions thereof. All insurance policies shall be with a company licensed by the State of Arkansas to do business and to provide such policies.</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>RECORD KEEPING</p> <p>The Contractor must update client records at each client visit. Medical records are kept and maintained in the facility's medical department.</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</p>

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		Performance Report (VPR) in the vendor file and contract termination.
<p>CRIMINAL BACKGROUND CHECKS</p> <p>The Vendor will 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 licensure under Ark. Code Ann. § 17-3-102 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 or information technology position” pursuant to Ark. Code Ann. § 21- 15-111.</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>PRIVACY AND SECURITY</p> <p>A. The Contractor shall comply with all DHS policies governing the privacy and security of all personally identifiable information (PII) and/or other confidential information received or accessed on behalf of Arkansas 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</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</p>

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<p>B. The Contractor shall implement and maintain reasonable security procedures and practices regarding all protected health information and/or other confidential information as required by A.C.A § 4-110-104, The Personal Information Protection Act.</p> <p>C. The Contractor shall disclose any breaches of privacy or security by contacting the DHS Information Technology Security Office within one (1) business day of the breach at DHS.IT.Security.Team@dhs.arkansas.gov.</p> <p>D. The Contractor shall use protected health information and/or other confidential information only in a manner that is necessary to provide the services required in this solicitation.</p> <p>E. The Contractor shall safeguard the use and disclosure of, and restrict access to, protected health information and/or other confidential information.</p> <p>F. The Contractor must maintain confidentiality and meet any applicable Privacy Act of 1974, Health Insurance Portability and Accountability Act (HIPAA), and Health Information Technology for Economic and Clinical Health (HITECH) Act requirements. Prior to award, the Contractor must complete and sign a Business Associate Agreement (BAA).</p>	<p>term as determined by DHS.</p>	<p>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>PAYMENT AND INVOICING</p> <p>All invoices shall be forwarded to Mary.ferguson@dhs.arkansas.gov or mailed to the following address:</p> <p>Conway Human Development Center Department of Human Services 150 East Siebenmorgen Road Conway, AR 72032</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</p>

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<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. or 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</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</p>

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<p>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 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>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>Conflict of Interest Mitigation</p> <p>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</p> <p>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</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</p>

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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.		transition are satisfied as determined by DHS.
<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). <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, the Contractor shall also notify DHS of the request at DHS.FOIA@arkansas.gov.</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 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</p>

Service Criteria ⁱ	Acceptable Performance	Damages for Insufficient Performance ⁱⁱ
		<p>accurately provide the requested information and documents.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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

In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to, or cure to the satisfaction of the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services of it is in the best interest of the State. In these instances, the State **shall** have final determination of the performance acceptability.

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

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

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