

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.
- 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>A. Contractor Responsibility</p> <ol style="list-style-type: none"> Contractor shall be familiar with the appropriate statutes, regulations, and policies regarding the safeguarding of Protected Health Information under the Health Insurance Portability and Accountability Act and current changes in laws, policies, regulations, etc. Contractor, at a minimum, shall provide interpreters who are proficient in American Sign Language (ASL) with the ability to sign for specialized and complex medical and/or legal terms. Contractor shall provide interpreter(s) who have extensive experience with deaf/hearing-impaired individuals for which American Sign Language (ASL) is the primary method of communication. Contractor shall provide qualified and certified interpreters who demonstrate proficiency in language and vocabulary. Contractor shall use certified interpreters for the area of expertise requested. Contractor's company must adhere to Arkansas time zone (CST) for purposes of scheduling. Contractor shall maintain adequate interpreters available twenty-four (24) hours daily; seven (7) days per week. Contractor shall provide sufficient interpreters to allow for adequate coverage throughout all seventy-five (75) counties within the state. Contractor shall provide qualified substitute interpreters, as appropriate. If an interpreter is absent, Contractor shall find a substitute Interpreter who meets 	<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>3rd incident: 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 terminating the contract.</p>

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<p>the certifications and qualifications of the assignment.</p> <p>10. Contractor shall notify the Division's contact person as soon as possible, not less than eight (8) hours, in the event that an Interpreter will be late or absent and no substitute can be found.</p> <p>11. Contractor will submit a signed and dated Receiving Report (DCFS only, (see sample Attachment 1) along with the Certification of Compliance, after each completed assignment, with their invoice for payment.</p> <p>12. The Contractor shall not bill DHS for closings due to inclement weather or emergency situations that cause DHS to close (e.g., flood, fire, tornado) unless the Interpreter is in the process of providing services when the cancellation takes place. DHS shall only be responsible for the service hours rendered, and any mileage if incurred, prior to cancellation.</p> <p>13. Services must be available within twenty-four (24) hours of notification by DHS seven (7) days a week. Contractor may be required to provide assistance to individuals with less than twenty-four (24) hours' notice in case of emergency.</p> <p>14. Contractor shall assume full responsibility for the quality of service provided.</p> <p>15. Contractor shall verify the credentials, background, and experience of interpreters of all interpreters assigned to perform services under this contract.</p> <p>16. Contractor shall ensure all interpreters are qualified to interpret effectively, accurately</p>		

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<p>and impartially and meet the following requirements:</p> <ol style="list-style-type: none"> a. Interpreters shall adhere to the Registry of Interpreters for the Deaf (RID) Code of Professional Conduct for the interpreting profession. b. Interpreters shall meet the following qualifications: <ul style="list-style-type: none"> • Certification by the Registry of Interpreters for the Deaf (RID) or the National Association of the Deaf (NAD) (Level 3 and above certification) • Mid-America Quality Assurance Screening Test (QAST) (Level 2 and above) • Two (2) or more years interpreting experience • Skilled in sign-to-voice and voice-to-sign interpreting • Strong voicing skills • Ability to interpret between English and ASL, as well as transliterate between spoken English and forms of signed English 		
<p>B. Interpreter Responsibility</p> <ol style="list-style-type: none"> 1. Interpreter shall facilitate communication between hearing and deaf or hard of hearing individuals. 2. Interpreter shall have the ability to easily translate what is being said in a clear and understandable manner. 3. Interpreter shall make every effort to assure the client has understood questions, instructions and other information transmitted by the using Division. 	<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</p>

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<ol style="list-style-type: none"> 4. Interpreter shall interpret the message accurately. Interpreter shall not add or subtract anything that is being communicated by the person with limited hearing proficiency or the corresponding individual(s). 5. Interpreter shall not interrupt the proceedings or unduly delay the testimony in a court of law. They shall not take sides, show bias or deference to either party, and never show emotion or reaction to testimony. 6. Interpreter shall maintain impartiality and confidentiality. 7. Interpreter shall be familiar with and show respect in both attire and conduct to rules of a professional environment. 8. Interpreter shall arrive on time for all assignments. 9. Interpreter shall present a Receiving Report to DCFS immediately after completion of services for signature by DCFS designee and submit for submission with invoice for payment. 		<p>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>3rd incident: 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 terminating the contract.</p>
<p>C. Other Contract Requirements</p> <ol style="list-style-type: none"> 1. Interpreter shall perform services under consultation and direction of the requesting division of DHS. 2. Each requesting Division that utilizes required forms will provide the Contractor with a current list and/or copies so that services can be more easily provided. 3. Divisions may require the Contractor to submit written monthly reports and to occasionally meet at the Division headquarters during the term of the contract. The exact nature of the report and meetings shall be determined by the requesting Division(s). All records and data 	<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</p>

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<p>pertaining to the contract shall remain the property of DHS.</p> <p>4. Divisions may request a Contractor to perform services on-site at the Division's office or other public and/or private facilities as determined by the requesting Division. Other facilities may include state mental hospitals, youth development centers, state correctional facilities, clinics, schools, doctor's offices, courts, and police offices.</p> <p>5. Each requesting Division will specify the area of interpretation they are in need of prior to a scheduled appointment.</p> <p>6. If DHS receives a complaint from a client or staff member about an interpreting situation, DHS will report the incident to the Contractor. If a complaint is repeated, the Contractor and DHS shall meet to resolve the issue. DHS can make a decision to terminate services if complaints are not investigated and resolved to DHS satisfaction by the Contractor.</p>		<p>total payment for the identified month in which the deficiency took place.</p> <p>3rd incident: 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 terminating the contract.</p>
<p>D. Scheduling and Payment</p> <p>1. If DHS cancels a scheduling assignment via correspondence, phone, FAX, or email, <u>with at least</u> twenty-four (24) hours' notice to the Contractor, the Contractor shall not bill for the assignment hours.</p> <p>2. If DHS cancels a scheduled assignment via correspondence, phone, FAX, or email, <u>with less</u> than twenty-four (24) hours' notice to the Contractor, the Contractor may bill for the scheduled hours plus any mileage, if incurred. However, if a documented good-faith effort to contact the Contractor at least twenty-four (24) hours in advance is made and DHS is still unable to contact the Contractor, the Contractor will</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</p>

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<p>not be paid for the assignment hours or any mileage, if incurred.</p> <p>3. If an Interpreter fails to attend a scheduled assignment and the Contractor fails to provide a qualified substitute, the Contractor shall reimburse DHS for two (2) hours of the Contractor's hourly fee plus mileage, if incurred. The fee shall be deducted from the requesting Division's invoice of the next scheduled appointment.</p> <p>4. If an Interpreter is more than twenty (20) minutes late and the meeting and/or activity must be postponed or rescheduled, the Contractor shall not bill for any services or mileage.</p> <p>5. If there is a no-show client for a scheduled assignment, the Contractor may be reimbursed by the requesting Division for half of the contracted time, with a minimum of two (2) hours of the Contractor's hourly fee plus mileage, if incurred. The fee shall be added to the requesting Division's invoice for the next scheduled appointment.</p> <p>6. In the event a qualified Interpreter is not available in the geographical area of the assignment, the Contractor shall have no more than twelve (12) hours to supply a qualified Interpreter. If an Interpreter, certified for the assignment, is not supplied within this timeframe, the requesting Division has the option to subcontract the assignment and bill the current Contractor the difference in the subcontractor's rate(s), including mileage, if incurred.</p> <p>7. If an interpreter works less than two (2) hours on an assignment, DHS will pay two (2) hours, as per the industry standard.</p>		<p>the deficiency took place.</p> <p>3rd incident: 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 terminating the contract.</p>

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<p>8. Travel miles for American Sign Language (ASL) Interpreter services will be reimbursed at the current State rate. No additional costs may be charged to Divisions/Offices. Travel miles will be portal-to-portal; beginning when Interpreter commences their trip from their home address or last work site, whichever is the shortest distance, to the proposed work site. Any mileage over fifty (50) miles one-way shall require prior approval from the requesting Division.</p> <p>The State will reimburse for official miles driven only. The State assumes no responsibility for any maintenance, insurance, operational costs, accidents or fines incurred by the operator of the vehicle while on official business for the State.</p>		
<p>E. Legal Interpreting Contractor shall provide only highly qualified interpreters for legal interpreting. This not only includes courtroom interpreting but also all related investigations and contact with police or juvenile authorities. Potential legal ramifications may include the entire case being dismissed if the quality of the interpreting service is questionable.</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>3rd incident: DHS reserves the right to impose additional penalties including without limitation,</p>

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		withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and terminating the contract.
<p>F. Ethics and Confidentiality The National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID) uphold high standards of professionalism and ethical conduct for interpreters. Interpreters shall adhere to the RID/NAD Code of Professional Conduct (formerly known as the Code of Ethics). For reference, the following are illustrative behaviors and are not exhaustive:</p> <ul style="list-style-type: none"> • Interpreters shall adhere to standards of confidential communication. • Interpreters shall possess the professional skills and knowledge required for the specific interpreting situation. • Interpreters shall conduct themselves in a manner appropriate to the specific interpreting situation. • Interpreters shall not counsel, advise or interject personal opinions or interfere with the communication process in any way on a personal level. 	<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>3rd incident: 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 terminating the contract.</p>
<p>G. Cell Phones and Pagers 1. Interpreters shall take care of personal business at times other than when on assignment.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the</p>

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<ol style="list-style-type: none"> 2. Because cell phones and pagers interfere or distract from fluency in interpreting, the Interpreter shall not wear a cell phone or pager during an assignment. 3. Cell phones and pagers shall have audible rings and beeps turned off. 4. Responding to calls or pages during an assignment shall not be permitted. 	<p>and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>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>3rd incident: 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 terminating the contract.</p>
<p>H. Mandated Reporting</p> <p>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. 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 	<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

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<p>d. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</p> <p>or</p> <p>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> <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 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>contract amount for the contract, as determined by DHS. DHS may elect to calculate penalties/damages differently per occurrence.</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>
<p>I. 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</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</p>

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<p>plan must be approved in advance by DHS.</p>		<p>be twice the amount of the immediately preceding violation fine.</p>
<p>J. 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 the all elements of the transition are satisfied as determined by DHS.</p>
<p>K. 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.</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

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		<p>determined by DHS.</p> <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>

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.