

**ARKANSAS DEPARTMENT OF HUMAN SERVICES  
PERFORMANCE BASED CONTRACTING**

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

- I. The contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the contractor or to the contractor's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Except as otherwise required by law, the contractor agrees to hold the contracting Division/Office harmless and to indemnify the contracting Division/Office for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the contracting Division/Office may sustain as a result of the contractor's performance or lack of performance.
- III. During the term of the contract, the division/office will complete sufficient performance evaluation(s) to determine if the contractor's performance is acceptable. The damages set forth below are not exclusive and shall in no way exclude or limit any remedies available to DHS 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 <b>must</b> provide the following psychiatric services and related services for clients ages 6- 85 with intellectual and developmental disabilities and co-occurring psychiatric conditions as referred by the HDC. Contractor <b>must</b> work closely with HDC behavioral health staff to ensure that he/she has all relevant information used by the Behavioral Health Department for decision making. Services <b>will</b> include, at minimum, the following:</p> <p><b>Referrals</b> Contractor <b>must</b> accept only referrals made by 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>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><b>Schedule</b></p> <ol style="list-style-type: none"> <li>1. Contractor <b>must</b> schedule psychiatric evaluations for each HDC referral.</li> <li>2. For Warren and Arkadelphia locations, the Contractor <b>must</b> be onsite at least two (2) days per week. For the Conway location, the Contractor <b>must</b> be onsite at least three (3) days per week. Hours <b>must</b> be scheduled in coordination with the HDC Superintendent. Schedules for psychiatric services <b>will</b> be maintained and kept current by the Superintendent at all times.</li> <li>3. In addition to onsite services, the Contractor <b>must</b> be available to take</li> </ol>	<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</p>

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<p>emergency calls twenty-four hours a day seven (7) days per week to address behavioral crisis as needed for the (HDC) facility.</p> <p>4. The Contractor <b>must</b> schedule clinic days and times in coordination with the Superintendent and/or Behavioral Health Staff at HDC, who maintain the clinic schedules.</p>		<p>(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><b>Services</b></p> <p>Psychiatric services <b>must</b> be provided in accordance with the American Psychiatric Association and Centers for Medicare and Medicaid Services (CMS) guidelines. Contractor <b>must</b> comply with federal and state laws, rules and regulations. and adhere to all applicable standards for professional conduct and quality of care. Contractor must provide any administrative services required under state laws governing Long Term Care Facilities and DHS policies. Patients <b>must</b> receive services by the same Contractor throughout the duration of the contract, unless otherwise approved by DHS/DDS.</p> <p>1. Psychiatric evaluations</p> <p>a. Contractor <b>must</b> conduct psychiatric evaluations onsite in accordance with the most recent practice guidelines issued by the American Psychiatric Association to assess whether the client has a psychiatric disorder.</p> <p>b. Provide a written report for all individuals evaluated at HDC to include diagnoses, appropriate short-term and long-term service needs, and current readiness for an alternate placement. The deadline for this report will be prior to the client's 30-day review.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and</p>

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<p>c. Results of evaluations <b>must</b> be provided no later than five (5) days after the evaluation.</p> <p>2. Psychiatric consultations Contractor <b>must</b> provide consultations onsite providing recommendations for further evaluation, treatment, medication, or other changes of condition.</p> <p>3. <u>Treatment</u></p> <p>a. Contractor <b>must</b> determine the appropriate treatment plan in conjunction with recommendations by the HDC Medical Director. Contractor <b>must</b> make recommendations to the interdisciplinary team and primary care provider for changes in treatment plans. Requirements for treatment plan <b>must</b> include, at minimum, the following:</p> <p>b. Conduct medication assessments and provide medication management on site, by telephone, or telehealth, with approval of the Superintendent.</p> <p>c. Participate in the development of new psychiatric service options for individuals with dual diagnoses.</p> <p>d. Provide the materials, supplies, and equipment necessary to provide specialized mental health treatment services according to the treatment plan.</p> <p>4. <u>Medication</u></p> <p>a. Contractor <b>must</b> assess the client's need for medication.</p> <p>b. If medication is prescribed, the Contractor <b>must</b> monitor the client and manage the medication accordingly.</p> <p>c. The Contractor <b>must</b> be cognizant of the cost of medication, laboratory studies, and other care, and whenever possible, order generic medication and only those</p>		contract termination

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<p>laboratory and other studies that are medically indicated.</p> <p>d. The Contractor <b>must</b> conduct quarterly reviews of the progress of each client receiving medication for behavioral and/or psychiatric reasons. Progress reports for each client <b>must</b> be submitted within two (2) days after the date of review.</p> <p>5. <u>Court and Other Testimony</u> Contractor <b>must</b> provide professional testimony as requested by the HDC.</p> <p>6. <u>Collaboration</u></p> <p>A. The Contractor <b>must</b> participate in interdisciplinary team meetings as requested by the HDC Superintendent or Assistant Superintendent.</p> <p>B. The Contractor <b>must</b> make recommendations to the interdisciplinary team and primary care physician for changes in medications and/or treatment plans based on the clinical information received.</p> <p>C. The Contractor <b>must</b> work closely with the pharmacy and primary care physician regarding application of medications.</p> <p>D. The Contractor <b>must</b> be available to psychology staff by phone even when the psychiatrist is not at the HDC location.</p> <p>E. The Contractor <b>must</b> work closely with other medical professionals regarding patient care.</p>		
<p><b><u>Incident Reporting</u></b> Contractor <b>must</b> immediately report incidents in accordance with DHS <a href="#">Policy 3002</a> 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 five percent (5%) penalty will be assessed in the following months'</p>

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		<p>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><b>RECORD KEEPING</b> The Contractor <b>must</b> update client records at each patient visit. Medical records are kept and maintained in the facility's medical department. Medical record documentation includes:</p> <ol style="list-style-type: none"> <li>1. Standardized psychiatric forms for initial assessments and follow-up visits.</li> <li>2. Progress notes using the SOAP (Subjective, Objective, Assessment, Plan) format.</li> </ol>	<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</p>

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<p><b>CRIMINAL BACKGROUND CHECKS</b> Contractor <b>must</b> comply with Arkansas Code Annotated (A.C.A.) §21-15-101 et seq, or any amendments thereto, which requires all employees of state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. §21-15-101 et seq, that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant/employee <b>shall</b> be immediately disqualified.</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>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><b>INSURANCE REQUIREMENTS</b> A. Prior to contract awarding, the Contractor <b>must</b> furnish an approved "Certificate of Insurance" and <b>must</b> maintain the insurance requirements throughout the contract and any/all extensions.</p> <p>B. The Insurance <b>must</b> not be modified without DHS 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>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>C. The Contractor <b>must</b> maintain insurance for the contract period and any resultant renewals in the minimum amount:</p> <ul style="list-style-type: none"> <li>• \$1,000,000 per occurrence for general liability,</li> <li>• \$3,000,000 aggregate, for professional liability, negligence, errors and omissions and public liability.</li> </ul> <p>D. The insurance <b>must</b> have limits sufficient to cover losses resulting from, or arising out of:</p> <ul style="list-style-type: none"> <li>• Vendor's action or inaction in the performance of the contract by the Vendor, its agents, servants, employees, or subcontractors.</li> </ul> <p>E. The insurance <b>shall</b> cover and continue to cover all occurrences during the term of this contract and any extensions thereof.</p> <p>F. All insurance policies <b>shall</b> be with a company licensed by the State of Arkansas to do business and to provide such policies.</p> <p>G. DHS is to be notified, not less than 45 days in advance of any non-renewal, cancellation, or expiration of the Contractor's insurance policy. In the event DHS receives a notice of non-renewal, the Contractor must provide DHS with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect.</p> <p>H. DHS <b>shall</b> have the right to inspect the Contractor's relevant insurance policies.</p>		<p>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><b>CONFIDENTIALITY</b> Contractor <b>must</b> maintain confidentiality and meet any applicable Health Insurance Portability and Accountability Act (HIPAA) requirements. Prior to award, the Contractor <b>must</b> complete and sign a Business Associate Agreement (BAA).</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout</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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	the contract term as determined by DHS.	<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><b>A. Mandated Reporting</b> 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"> <li>A child has been subjected to child maltreatment;</li> <li>A child died as a result of child maltreatment;</li> <li>A child died suddenly and unexpectedly; or</li> <li>Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</li> </ol>	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>For each failure to report, DHS may impose:</p> <ol style="list-style-type: none"> <li>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</li> <li>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</li> </ol>

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<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>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><b>B. Conflict of Interest Mitigation</b></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><b>C. Transition Planning</b></p> <p>Ninety (90) days prior to the contract</p>	<p>The Vendor must maintain one hundred percent (100%)</p>	<p>If the Vendor fails to meet the acceptable performance</p>

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<p>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>compliance with this item at all times throughout the term of the contract.</p>	<p>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 the all elements of the transition are satisfied as determined by DHS.</p>
<p><b>E. Arkansas Freedom of Information Act (Ark. Code Ann. §25-19-101 et seq.):</b></p> <ol style="list-style-type: none"> <li>1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request.</li> <li>2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</li> <li>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A).</li> </ol> <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"> <li>1. For each failure to meet performance standard, DHS may impose: <ol style="list-style-type: none"> <li>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</li> <li>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.</li> </ol> </li> </ol> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p>

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		<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.

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<sup>i</sup> 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.

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