

~~1066.0.0 — PERFORMANCE-BASED CONTRACTING POLICY~~

~~1066.1.0 — Purpose~~

~~To ensure that the quality of contract services is evaluated and, where necessary, proper remedies are implemented to assure efficient, effective, and responsive performance.~~

~~1066.2.0 — Authority~~

~~Arkansas Code Annotated (A.C.A.) §19-11-1010 et seq.~~

~~A.C.A. §19-11-1010 states, “Under regulations promulgated by the State Procurement Director, all state agencies, boards, commissions and institutions of higher education shall use performance-based standards in professional and consultant service contracts.”~~

~~1066.3.0 — Applicability~~

~~These rules apply to all professional and consultant service (PCS) contracts to which Department of Human Services (DHS) is a party except as listed below:~~

- ~~A. — PCS contracts which are procured by the Sole Source by Law method~~
- ~~B. — PCS contracts which are executed as Emergency contracts~~
- ~~C. — PCS contracts for Architectural and Engineering services which are awarded using Arkansas Building Authority (ABA) criteria~~
- ~~D. — PCS contracts for \$10,000 or less (compensation plus reimbursable costs)~~

~~1066.4.0 — Definitions~~

~~1066.4.1 — **Performance Based Standards** — Performance based standards include program deliverables (also known as benchmark objectives), performance indicator(s), acceptable performance criteria, method(s) of evaluation of performance, and remedies.~~

~~1066.4.2 — **Program Deliverable** — A statement of intention with which actual achievement and results can be measured and compared. The program deliverable should clearly describe what is to be achieved, when it is to be achieved, and the extent of the achievement.~~

~~1066.4.3 — **Performance Indicator** — An identification of the specific activity(ies) required of the contractor to meet the program deliverable(s). Each program deliverable must have at least one performance indicator.~~

~~1066.4.4 — **Acceptable Performance Criteria** — A statement defining the performance criteria for meeting or exceeding the performance indicator.~~

~~1066.4.5 — **Performance Evaluation** — A method to assess the quality of the contractor's service(s) by reference to all the performance indicators.~~

~~1066.4.6 — **Remedy** — A statement of the correction or redress to be taken for unacceptable performance.~~

~~1066.4.7 — **Administrative Appeal** — This process set out in A.C.A. § 25-15-101, et seq.~~

1066.5.0 — Procedures to Design and Develop Performance Indicators

~~1066.5.1 — These procedures apply to each new contract or any contractual amendment that changes any contract provision except price, quantity, or duration.~~

~~1066.5.2 — The division/office desirous of contracting shall prepare proposed performance based standards and submit them to Contract Support Section (CSS), Office of Finance and Administration (OFA), for review and approval.~~

~~1066.5.3 — CSS will review the proposed performance based standards to ensure that the standards do not violate any law or regulation applicable to DHS and that the contract terms are enforceable.~~

~~A. — If the division/office or CSS require legal assistance related to the proposed performance based standards, the division/office or CSS will consult with Office of Chief Counsel (OCC).~~

~~B. — CSS or OCC will indicate approval in writing to division/office.~~

~~1066.5.4 — Performance based standards must specify the program deliverable(s), performance indicator(s), acceptable performance levels, and remedies for unacceptable performance.~~

~~1066.5.5 — There is no need for administrative review by CSS if the contracting division/office certifies the following:~~

~~This contract is identical to an existing contract that has received CSS or OCC approval except as to contractor;~~

~~AND~~

~~The existing approved performance terms are satisfactory and have accomplished the outcomes desired~~

~~OR~~

~~This amendment changes only quantity, price, or duration~~

~~AND~~

~~The existing approved performance terms have previously been approved by CSS or OCC, and are satisfactory and have accomplished the outcomes desired~~

1066.6.0 — Performance Evaluation

~~1066.6.1 — During the term of the contract, the division/office shall complete sufficient performance evaluation(s) to determine if the contractor's performance is~~

~~satisfactory or unsatisfactory. Justification for the division/office's ultimate determination should be retained in the division/office files for a minimum of five years from the expiration date of the resultant contract.~~

~~1066.6.2 As part of the end of year closeout procedures, the division/office shall:~~

- ~~A. Review the performance of ALL contracts having performance indicators;~~
- ~~B. Notify the contractor(s) of the results of the performance evaluation and impose remedies for unacceptable performance.~~

~~**1066.7.0** The rules do not **amend** or replace any other contracting requirements including, but not limited to, submission of the Independent Contractor Checklist (Form DHS 9356) to determine the existence of an employer/employee relationship and the review and approval by the Office of Systems Technology of any acquisition of information systems technology as set out at DHS Policy 1022.~~

~~**1066.8.0 Originating Section/Department Contact**~~

~~Central Support Unit
Contract Support Section
Office of Finance and Administration
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