

PERFORMANCE STANDARDS

Performance standards (A.C.A. § R1:19-11-267) are statements which define the acceptable level of performance by a contractor. By law, they are required in contracts for services with an initial contract amount (ICA) of at least \$1,000,000 and/or a TPC of \$7,000,000.00 or more; however, it is best practice to include them in *all* service contracts.

These indicators tie at least a portion of a contractor’s payment to the achievement of specific outcomes which are measurable in *quality, quantity, or timeliness*.

Performance standards should be provided in a table format that can be inserted into the solicitation template or included as a separate document attachment with the solicitation.

Performance standards are written in a specific format of three parts. Each performance standard must include:

1. The criterion subject.
2. An acceptable standard of quality, quantity, or timeliness for the performance of that criterion.
3. The consequence of not meeting the standard, called damages; or, of meeting the standard, for cases of benchmark payments.

Performance standards must be customized to each service, using as many standards as needed to ensure an acceptable provision of the service. They must be monitored and measured by the State agency so that they can be enforced.

Example of Performance Standards for an Ongoing or Repetitive Service

Criteria	Standard	Damages
Website Availability	Not more than 4 hours of downtime monthly	\$50 credit on monthly invoice for each minute over 4 hours of downtime for the month
Forms Processing Accuracy	100% Accuracy	\$100 credit on annual invoice for each error
Answer Time for Help Desk	100% of calls answered within 30 seconds on a monthly basis	\$50 credit on monthly invoice for each call not answered within 30 seconds
Delivery of Monthly Report	Received no later than 14 business days from order date	\$200 credit on monthly invoice for each business day past 14 days that report is delivered late

Example of Performance Standards for a Project Service with Benchmark Payments

Criteria	Standard	Compensation/Damages
Initial Installation of Software System	Completed within 90 days of contract award	20% of total contract value paid if completed by deadline; \$200 shall be deducted from this benchmark payment for each one week late.
All Testing, Trouble-shooting, and Necessary Corrections to System	Completed within 60 days of Installation Completion	20% of total contract value paid if completed by deadline; \$100 shall be deducted from this benchmark payment for each day late.
Pilot of System and All Initial Agency Training	Completed within 60 days of Testing/Corrections Completion	20% of total contract value paid if completed by deadline; \$200 shall be deducted from this benchmark payment or each one day late.
Total Roll Out of System	Completed within 12 months of contract award OR within 150 days of Pilot Completion	Final 40% of total contract value paid if completed by deadline; \$300 shall be deducted from this benchmark payment for each one week late.

Tips for Creating Performance Standards

1. A performance standard must be applicable to a specific requirement in the solicitation.
2. When stating the damage amount, you must state to what the amount applies.
 - For example: "\$100 credit on the next invoice."
3. For damages, it is much easier to work with an exact dollar amount as opposed to a percentage.
 - Using percentages will require you to take an extra step to calculate the amounts for each damage applied.
4. Do *not* use the term "Liquidated" Damages. Use simply "Damages".

You can see more examples of performance standards in solicitations posted on the OSP website, [Bid Opportunities](#) page. Open a solicitation for services to see the performance standards table or attachment.

Standard contractual language surrounding the application of performance standards is in the solicitation templates.

This language should not need to be edited except for the purpose of including any specific details regarding how a credit must be provided, such as, as a refund check or a credit on an invoice.

Performance standards are often discussed and can be adjusted during contract negotiations.