

## **LIQUIDATED DAMAGES**

In the event of a Contract performance or compliance failure by Contractor and such Contract performance or compliance failure is not included in the following table with an associated Liquidated Damage amount, the parties hereby agree that the State may choose one of the following courses of action in order to obtain redressability for such Contract performance or compliance failure: (1) the State may assess actual damages resulting from the Contract performance or compliance failure against the Contractor in the event that such actual damages are known or are reasonably ascertainable at the time of discovery of such Contract performance or compliance failure or (2) if such actual damages are unknown or are not reasonably ascertainable at the time of discovery of the Contract performance or compliance failure, the State may (a) require the Contractor to submit a corrective action plan to address any such Contract performance or compliance failure and (b) assess Liquidated Damages against Contractor for an amount that is reasonable in relation to the Contract performance or compliance failure as measured at the time of discovery of the Contract performance or compliance failure. In the event that the State chooses to assess a Liquidated Damage for a Contract performance or compliance failure according to the immediately preceding sentence, in no event shall such Liquidated Damage be in excess of one thousand dollars (\$1,000) for any single Contract performance or compliance failure.

DHS may elect to apply the following Liquidated Damages remedies in the event the Contractor fails to perform its obligations under this Contract in a proper and/or timely manner. Upon determination by DHS that the Contractor has failed to meet any of the requirements of this Contract in a proper and/or timely manner, DHS will notify the Contractor in writing of the performance or compliance failure and of the potential Liquidated Damages to be assessed. Should the performance or compliance failure remain uncorrected for more than thirty (30) calendar days from the date of the original notification of the performance or compliance failure by DHS, DHS may impose an additional Liquidated Damage of five hundred dollars (\$500) per day from the date of the original notification to Contractor until said performance or compliance failure is resolved.

All Liquidated Damages remedies set forth in the following table may, at DHS's election, be retroactive to the date of the initial occurrence of the failure to comply with the terms of the Contract as set forth in the notice of performance or compliance failure from DHS and may continue until such time as the DHS Deputy Commissioner, or the Deputy Commissioner's representative, determines the performance or compliance failure has been cured.

If Liquidated Damages are assessed, DHS shall reduce the amount of any payment due to the Contractor in the next invoice by the amount of damages. In the event that damages due exceed the amount DHS is to pay to Contractor in a given payment, DHS shall invoice Contractor for the amount exceeding the amount payable to Contractor, and such excess amount shall be paid by Contractor within thirty (30) calendar days of the invoice date. In situations where the Contractor wishes to dispute any liquidated damages assessed by DHS, the Contractor must submit a written notice of dispute, including the reasons for disputing the Liquidated Damages, to the DHS Deputy Commissioner or the Deputy Commissioner's representative within thirty (30) calendar days of receipt of the notice from DHS containing the total amount of damages assessed against the Contractor. If the Contractor fails to timely dispute a Liquidated Damages assessment as set forth herein, such failure shall constitute a bar to the Contractor seeking to have the assessment amount overturned in a forum or court of competent jurisdiction.

Liquidated Damages will apply to the Contract performance or compliance failures listed below. Contractor acknowledges that the actual damages likely to result from Contract performance or compliance failures are difficult to estimate and may be difficult for the State to prove. The parties intend that the Contractor's payment of assessed liquidated damages will compensate the State for breach of the Contractor obligations under this Contract. Liquidated Damages do not serve as punishment for any breach by the Contractor.

## LIQUIDATED DAMAGES EVENT AND AMOUNTS

<b>Liquidated Damages Event</b> <i>Enter event giving rise to the liquidated damages (attach contract and include contract section references to describe Contractor's required activity or deliverable as applicable)</i>	<b>Liquidated Damages Amount</b> <i>Enter assessed monetary amount if the Liquidated Damages Event occurs (e.g., one thousand dollars (\$1,000.00) for each day beyond the deadline that any service deliverable is not completed).</i>
<b><u>Liquidated Damage Event 1:</u></b>  Failure to ensure that all personnel of the Contractor and of any subcontractors authorized to handle Federal Tax related information sign an IRS Confidentiality Form annually, as specified in Section D.34.j.	Five hundred dollars (\$500.00) per person per failure.
<b><u>Liquidated Damage Event 2:</u></b>  Failure to meet or exceed support order established requirements as specified in Section A.9.b.	An amount equal to two percent (2%) of the compensation paid to the Contractor during the Contract year(s) in which the performance standards were not met.
<b><u>Liquidated Damage Event 3:</u></b>  Failure to meet or exceed payment on arrears cases requirements as specified in Section A.9.e.	An amount equal to two percent (2%) of the compensation paid to the Contractor during the Contract year(s) in which the performance standards were not met.
<b><u>Liquidated Damage Event 4:</u></b>  Failure to comply with the applicable legal standard regarding access to FTI, including but not limited to the physical security standards established in Section A.62 of	One Thousand Dollars (\$1,000.00) per day per deficiency until resolved.

<p>the Contract and IRS Publication 1075.</p>	
<p><b><u>Liquidated Damage Event 5:</u></b></p> <p>Failure to timely submit a written Corrective Action Plan addressing failure to meet one or more performance standards outlined in A.9.a.-e. or addressing Program</p> <p>Deficiencies determined by the Self-Assessment and/or Program Review process.</p> <p>(Reference Sections A.11 through A.18)</p>	<p>One Thousand Five Hundred Dollars (\$1,500.00) per day on and after the Contractor fails to comply with any problem notification or Corrective Action Plan requirement, until the deficiency is resolved.</p>
<p><b><u>Liquidated Damage Event 6:</u></b></p> <p>Failure to remedy during the Corrective Action Plan's period, the cited deficiencies being addressed by the Corrective Action Pan.</p> <p>(Reference Sections A.11- A.15, and A.18)</p>	<p>One Thousand Five Hundred Dollars (\$1,500.00) per calendar day that the deficiency persists until resolved.</p>
<p><b><u>Liquidated Damage Event 7:</u></b></p> <p>Failure to provide the State, no later than July 31, 2027, a tested version of the Disaster Recovery /Business Continuity Plan or to notify the State, by the due date as specified, of alterations to the documented and tested Disaster Recovery / Business Continuity Plan.</p> <p>(Reference Section A.67.)</p>	<p>Seven Hundred Fifty Dollars (\$750.00) per day that the contractor fails to provide a tested version of the Disaster Recovery/Business Continuity Plan, as required, until resolved.</p>
<p><b><u>Liquidated Damage Event 8:</u></b></p> <p>Failure to comply with any requirement pertaining to the Implementation Plan as set forth in Section A.3 of the Contract.</p>	<p>A maximum of One Thousand Dollars (\$1,000.00) for each calendar day the Contractor fails to fully comply with Section A.3 of the Contract.</p>

<p><b><u>Liquidated Damage Event 9:</u></b></p> <p>Failure to comply with the personnel requirements established in Section A.5 of the Contract.</p>	<p>A maximum of One Thousand Dollars (\$1,000.00) for each calendar day the Contractor fails to fully comply with Section A.5 of the Contract until resolved.</p>
<p><b><u>Liquidated Damage Event 10:</u></b></p> <p>Failure to comply with any requirement established in Section A.6 of the Contract.</p>	<p>A maximum of One Thousand Dollars (\$1,000.00) for each calendar day the Contractor fails to fully comply with Section A.6 of the Contract until resolved.</p>
<p><b><u>Liquidated Damage Event 11:</u></b></p> <p>Failure to comply with any requirement established in Section A.10 of the Contract.</p>	<p>A maximum of Ten Thousand Dollars (\$10,000.00) for each failure of the Contractor to promptly notify the State of any problem impeding the Contractor's ability to perform any function specified in the Contract.</p>
<p><b><u>Liquidated Damage Event 12:</u></b></p> <p>Failure to comply with any requirement established in Section A.28 of the Contract.</p>	<p>A maximum of Five Thousand Dollars (\$5,000.00) for each failure of the Contractor to comply with any requirement established in Section A.28.</p>
<p><b><u>Liquidated Damage Event 13:</u></b></p> <p>Failure to answer 100% of calls within one hundred twenty seconds as required by Section A.52.a. of the Contract.</p>	<p>A maximum of one thousand dollars (\$1,000.00) for each calendar day during which the Contractor fails to answer 100% of calls within one hundred twenty seconds.</p>
<p><b><u>Liquidated Damage Event 14:</u></b></p> <p>Failure to comply with each and every call center requirement pertaining to call documentation and reporting as established in Sections A.52.d. - A.52.g.</p>	<p>A maximum of five thousand dollars (\$5,000.00) per month that the Contractor fails to fully comply with the requirements of Sections A.52.d. through A.52.g. regarding documentation and reporting.</p>

