

## APPENDIX 10C MANDATORY REQUIREMENTS

### PERFORMANCE STANDARDS

#### 5 Mandatory Requirements

##### C. Performance Standards and Associated Penalties

The Contractor must guarantee performance sufficient to fulfill the needs of the Contract. The Contractor must meet all performance standards listed in this Appendix 10C - Performance Standards. After the Contract start date, if additional resources are needed, the Contractor will bear all costs necessary to satisfy the requirements of the Contract.

In addition to the liquidated damages detailed in Exhibit 4 - Department Terms and Conditions, ETF may also assess penalties for failure to meet the performance standards listed below.

Written notification of each failure to meet a performance standard that is measured by ETF will be given to the Contractor prior to assessing penalties. The Contractor will have five (5) Business Days from the date of receipt of ETF's written notification of a failure to perform to provide ETF with specifications to cure the failure. Additional days may be approved by the ETF Program Manager if deemed necessary. If the failure is not resolved within this warning/cure period, penalties may be imposed retroactively to the date of failure to perform. The imposition of penalties is not in lieu of any other remedy available to ETF or in lieu of any other penalties in applicable state or federal law.

If ETF elects to not exercise a penalty clause in a particular instance, this decision shall not be construed as an acceptance of the Contractor's performance. ETF retains the right to pursue future assessment of that performance requirement and associated penalties.

ETF shall be the sole determinant as to whether or not the Contractor meets a performance standard.

The purpose of penalties is to ensure adherence to the performance requirements in the Contract. It is agreed by ETF and the Contractor(s) that, in the event of a failure to meet the performance requirements listed below, damage shall be sustained by ETF. It shall be agreed that the Contractor(s) shall pay or credit ETF for such failures at the sole discretion of ETF, according to the Requirements and penalties below. The performance requirements and corresponding penalties shall apply to both DW and VBI Contractor(s).

ETF may deduct amounts due as actual or penalties from any monies payable to the Contractor(s) pursuant to its Contract. ETF shall notify the Contractor(s) of any claim for damages prior to the date upon which such monies are deducted from monies payable to the Contractor(s). ETF may choose, as an alternative that the Contractor(s) shall provide the value of penalties in the form of a service credit that reflects the equivalent amount of hours billed by the Contractor(s) on the Project.

ETF and the Contractor(s) shall agree that the Contractor(s) shall not be subject to penalties for failure to meet a performance standard where said failure is not caused by the Contractor(s). ETF shall have the right to make the final determination in the assessment of all penalties. Finally, while the Performance Standards impose penalties upon the Contractor(s) when the Contractor(s) fails to meet a performance standard, it is ETF's expectation that ETF and the Contractor(s) shall enter into a collaborative relationship; and as such, opportunities and methods to improve Contractor(s) performance for said failures shall be pursued by both ETF and the Contractor(s), in order to meet or exceed the Performance Standards Requirements.

The penalties assessed shall not exceed twenty-five (25%) percent of the Contractor(s) total administrative fee paid under the Contract in any given quarter. After implementation, all performance standards will be measured by the ETF on a quarterly basis. The performance categories and associated penalty are listed below and explained in greater detail in the tables that follow:

- A. Staffing Plan and Project Initiation (2%)
- B. Reporting: Operational and Analytic (3%)
- C. Functional (4%)
- D. Privacy and Security (6%)
- E. Hosting (3%)
- F. Maintenance (2%)
- G. Training (2%)
- H. Customer Relationship Management (CRM) (2%)
- I. Other (1%)

Detailed Requirement Description	Penalties
<b>A. Staffing Plan and Project Initiation -- Two (2%) Percent Penalty</b> The Contractor(s) shall complete the task by the date specified in the Project Plan(s), or within the timeframes specified in the requirements. The Contractor shall report monthly values on a quarterly basis for these standards. The total penalties for this performance category shall not exceed two (2%) percent of the total estimated administrative fee for the quarter.	
<b>1) Staffing Plan:</b> Key Personnel: Filling Open Positions: The Contractor(s) shall staff any position designated as a Key Position with a qualified individual approved by ETF within ten (10) Business Days of project start date or staff departure, unless a different timeframe is approved by ETF. The Contractor(s) shall provide resumes of qualified candidates for ETF approval at least ten (10) Business Days in advance of filling Key Positions.  Departure Notification to ETF: The Contractor(s) shall notify ETF fifteen (15) Business Days prior to the planned termination or transfer of any individual designated as Key Personnel. In the instance of unforeseen circumstances requiring the release or reassignment of a key resource, the Contractor(s) shall notify ETF within one (1) Business Day of the unplanned termination or transfer of any individual designated as Key Personnel. See Staffing Plan Requirements for more details regarding Key Personnel.  Non-Key Personnel: The Contractor(s) shall provide adequate staffing in addition to those identified as Key Personnel to perform all tasks specified in this RFP.	\$1,000 per Business Day, per unmet standard.

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<p><b>2) Project Initiation:</b> Contractor(s) shall have the DW and VBI solution ready and appropriately staffed and have staff appropriately trained to begin providing Services according to the ETF approved Project Plan(s) (see Project Management Requirements). If, for any reason, the Contractor(s) does not meet the start date as provided within the agreed upon Project Plan, damages may be assessed for each Business Day of delay in starting operations.</p> <p>Contractor(s) shall provide to ETF all deliverables within the time frames indicated following Contract award, including all deliverables according to the ETF approved Project Plan(s) (see Project Management Requirements).</p>	<p>\$1,000 per Business Day per unmet standard.</p>
<p><b>3) User Support Services:</b> The Contractor shall deliver user support services in accordance with the requirements in this RFP.</p>	<p>\$250 per Business Day the Contractor remains non-compliant.</p>
<p><b>B. Reporting: Operational and Analytic -- Three (3%) Percent Penalty</b> The total penalties for this performance category shall not exceed three (3%) of the total administrative fee for the quarter.</p>	
<p><b>1) Timeliness and Format of Operational and Data, Analytic, and Dashboard Reporting Deliverables:</b> Reports, data and dashboards shall be produced in the format and media approved by ETF.</p> <p>The Contractor(s) shall deliver all reports, data, and/or dashboards to ETF and any appropriate designees according to the defined schedule agreed upon by ETF and the Contractor(s), and as outlined in the Project Plan (see Project Management and Reporting Requirements).</p> <p>This performance requirement applies to all operational and analytic reports, data, and dashboards to be delivered to ETF or its designee.</p>	<p>\$1,000 per Business Day, per unmet standard.</p>
<p><b>2) Information Accuracy:</b> The Contractor(s) shall guarantee a minimum 95% accuracy for any data element. If errors are found by the Contractor(s), ETF, or DSEs, the Contractor will post notice to data users and remedy within five (5) Business days, or other timeline approved by ETF (See Reporting Requirements).</p>	<p>\$1,000 per Business Day, beyond the agreed upon deadline to remedy.</p>
<p><b>C. Functional -- Four (4%) Percent Penalty</b> The Contractor(s) shall provide quarterly reports on functionality and associated issues described in these standards. The total penalties for this performance category shall not exceed four (4%) of the total administrative fee for the quarter.</p>	
<p><b>1) Performance and Capacity: Query/Navigation Speed and Performance:</b> For all environments, 90% or more of benchmark run times will be sub-second response time in response to a click, three (3) seconds for navigation/screen refreshes, web services response of three (3) to five (5) seconds, no more than 30 seconds for standard/cached or low complexity reports.</p> <p>For more complex reports and queries with an ETF approved response time of greater than thirty (30) seconds, the Contractor(s) may be requested to provide to the requestor an online status of the query, and a notification when the query results are complete.</p>	<p>\$500 per occurrence.</p>
<p><b>2) Extract, Transform, and Load (ETL):</b> Unless otherwise agreed to by ETF, all ETL and batch processing of the DW and VBI systems shall occur outside of normal hours of operation, and shall complete in a way that meets the following criteria:</p> <p>1) Processing is accomplished in the schedule approved by ETF; and 2) Processing is completed in a manner as to allow the initiation of the DW and VBI online access within a time period agreed upon by ETF and the Contractor(s).</p>	<p>\$1,000 per occurrence.</p>
<p><b>3) Data Conversion or Transformation:</b> Data shall be converted or transformed accurately. Ninety-nine percent (99%) of cases and related data shall be converted accurately. Fulfillment of this Requirement shall be assessed via conducting analysis of ETL and UAT validation reports. See the Operational Reporting Requirements for more detail.</p>	<p>\$1,000 per Business Day, per unmet standard.</p>
<p><b>4) Communication of Critical User Documents:</b> Data model, designs, standards, data dictionaries, training and supportive documentation shall be complete and published to ETF and key business partners no later than the delivery dates on the ETF and Contractor(s) approved Project Plan.</p>	<p>\$1,000 per Business Day, per unmet standard.</p>
<p><b>5) Timely Notification to ETF of Delays:</b> When the Contractor(s) discovers any problem(s) that jeopardize timely completion of its required tasks and obligations under the Contract, the Contractor(s) will notify ETF orally and via email. The notifications will be delivered as soon as possible but no later than 5:00 PM CDT/CST on the day the problem is identified. If the problem occurs after close of business hours, notification will be delivered no later than 7:00 AM CDT/CST on the following Business Day.</p>	<p>\$1,000 per occurrence.</p>

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<b>D. Privacy and Security -- Six (6%) Percent Penalty</b> The Contractor shall notify ETF as described below for any incident of security breach. The total penalties for this performance category shall not exceed six (6%) of the total administrative fee for the quarter, <b>not inclusive of any statutorily-levied fines.</b>	
<b>1) Privacy or Security Violations or Incidents:</b> The Contractor(s) shall use or disclose PHI only to perform functions, activities or services specified in this RFP, for, or on behalf of ETF, provided that such use or disclosure would not violate the HIPAA, ACA, or HITECH regulations.  ETF also considers malware (e.g. ransomware, adware, spyware, etc.) incidents or attacks to be violations or potential violations, regardless of whether PHI or PII are improperly disclosed.	1) \$10,000 - First violation, plus \$1,000 per record affected by each breach or disclosure; 2) \$15,000 - Second violation, plus \$1,000 per record affected by each breach or disclosure; 3) \$20,000 - Third and any additional violations, plus \$1,000 per record affected by each breach or disclosure.
<b>2) ETF Timely Notification of Breach:</b> The Contractor(s) shall notify the ETF Program Manager and Privacy Officer within twenty-four (24) hours of identifying any system breach or impermissible use, regardless of disclosure of PII or PHI.  While it is possible that malware incidents or attacks may not result in the disclosure of PII or PHI, malware attacks shall be disclosed to ETF as part of this requirement.	\$5,000 per hour, for every hour beyond the twenty-four (24) hours that it takes for the Contractor(s) to notify ETF of a privacy or security breach (upon discovery by the Contractor(s)).
<b>3) ETF Notification Prior to External Communication:</b> The Contractor(s) shall notify the ETF Program Manager and Privacy Officer no less than one (1) Business Day before any external communication (e.g. other than ETF) is made regarding a data breach, impermissible use, or impermissible disclosure of PII or PHI. This includes notification of any affected DSEs.  While it is possible that ransomware incidents or attacks may not result in the disclosure of PII or PHI, ETF shall be notified of ransomware attacks prior to external communication as part of this requirement.	\$1,000 per incident when the Contractor(s) communicates a breach to external parties before ETF is given at least a one (1) Business Day notification.
<b>4) Malware Contamination:</b> Contractor(s) shall utilize industry standard practices and conduct their due diligence in maintaining a system(s) that is free of malware. If any malware is introduced, twenty-four (24) hours will be allowed to resolve the issue, commencing immediately upon the availability of the fix or patch required for the resolution.	\$10,000 per Business Day, per malware beyond the twenty-four (24) hour window allowed for resolution.
<b>E. Hosting -- Three (3%) Percent Penalty</b> The total penalties for this performance category shall not exceed three (3%) of the total administrative fee for the quarter.	
<b>1) System(s) Uptime Availability:</b> The Contractor(s) shall assure that systems meets the uptime requirement of 99.9%, exclusive of the regularly scheduled maintenance windows, subject to third party and external systems beyond the control of the Contractor.	\$2,000 per hour, for every hour of required uptime that the system is unavailable.
<b>F. Maintenance -- Two (2%) Percent Penalty</b> The total penalties for this performance category shall not exceed two (2%) of the total administrative fee for the quarter.	
<b>1) Major System Upgrades:</b> The Contractor(s) shall notify ETF at least sixty (60) Calendar Days prior to the installation or implementation of major system upgrades or replacements.	\$2,500 per day, past the required notification date.
<b>2) User Notification:</b> The Contractor(s) shall notify all DSE end users of all planned and unplanned system maintenance.	\$2,500 per incident when DSE's are not notified of system maintenance.
<b>3) Maintenance Schedule:</b> The Contractor(s) shall submit an annual system maintenance schedule each year for ETF review and approval. The Contractor(s) shall communicate ETF-approved changes to the maintenance schedule to ETF-approved business partners and ETF staff via the web, email, and banner messages at least forty-five (45) Calendar Days in advance of implementing the change.  The Contractor(s) shall submit all requests for unscheduled and/or emergency maintenance to ETF for written approval and consideration to waive the forty-five (45) Calendar Day notification period.	\$2,500 per day un-notified.
<b>G. Training -- Three (3%) Percent Penalty</b> The total penalties for this performance category shall not exceed three (3%) of the total administrative fee for the quarter.	
<b>1) User Training:</b> Each training session shall meet a minimum user satisfaction scores in training follow-up satisfaction surveys, as agreed upon by ETF and the Contractor.	\$500 for each training session that does not meet user satisfaction.

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<b>2) Effective Training and Knowledge Transfer:</b> The Contractor shall provide timely and effective knowledge transfer and training at least thirty (30) Calendar Days prior to each system implementation or upgrade, or as otherwise agreed to between ETF and the Contractor(s).	\$1,000 for each system implementation or upgrade where training at least thirty (30) Calendar Days prior has not occurred.
<b>H. Customer Relationship Management (CRM) -- Two (2%) Percent Penalty</b> The Contractor(s) shall provide monthly performance data on a quarterly basis for the below performance category. The total penalty for this category shall not exceed two (2%) of the total administrative fee for the quarter.	
<b>1) Customer Service Center:</b> 1) 100% of incoming and outgoing calls shall be recorded and recordings maintained; 2) 99% of calls will be answered by an individual or an electronic device without receiving a busy signal; 3) 95% of all calls, whether incoming or outgoing, will be placed on hold for no more than one (1) minute; 4) 90% of calls answered will be resolved by the Contractor(s) during the initial contact; 5) 95% of calls that require follow-up or research will be resolved within forty-eight (48) hours; 6) 98% of the time, facsimile (FAX) lines shall meet ETF and other end user demands; and 7) 98% of customer service issues submitted by email, website or web-portal are responded to within two (2) Business Days.  Additional response times shall be negotiated between ETF and the Contractor(s). While priority shall be given to urgent requests, non-urgent requests will be processed on a first-in/first-out basis, or as agreed upon by ETF and the Contractor(s).	\$2,500 for each full percentage point below the requirement, to be assessed monthly.
<b>2) Notification of Disruption:</b> The Contractor(s) shall notify the ETF Program Manager of any disruption in customer service center availability or toll-free access regardless of reason for disruption, within one (1) hour of issue identification.	\$2,500 per hour, per unmet standard.
<b>I. Other -- One (1%) Percent Penalty</b> The total penalties for this performance category shall not exceed one (1%) of the total administrative fee for the quarter.	
<b>1) Recovery Time Objective (RTO):</b> The Contractor(s) shall fully recover the system following any catastrophic failure, within fifteen (15) Calendar Days.	\$10,000 per Calendar Day for which standard is not met.
<b>2) Recovery Point Objective (RPO):</b> After a data loss event or complete system failure, the Contractor(s) system shall support the ability to recover data back to a point in time seventy-two (72) hours earlier. The Contractor will provide a data recovery strategy for the system, and ensure its compatibility within overall Infrastructure Plan.	\$5,000 damages may be assessed for every 0.50% under 100.0% of data that is not fully restored outside the mutually agreed timeframe specified following a data loss event, at ETF's sole discretion.
<b>3) Additional Performance Standards:</b> In addition to the above, proposed standards, ETF seeks input from the Contractor on other relevant performance standards.	N/A