

Louisiana Department of Health

Liquidated Damages Consideration Form

A. CONSIDERATION FACTORS FOR INCLUSION OF LIQUIDATED DAMAGES: Pursuant to the LDH MEMO on “Use of Liquidated Damages in Contracts”, the program office that originates the contract or amendment should determine, through its Assistant Secretary/Medicaid Director/other Authority, whether a “liquidated damages” provision is necessary. The below referenced factors may be considered when evaluating liquidated damages. The factors provided are not the only factors that may be considered by an Assistant Secretary/Medicaid Director/other Authority. Factors to consider include:

1. A reasonable estimate of the actual damage that LDH is likely to incur as a result of the contractor’s breach; and/or
2. When there are concerns about the possibility of losses to LDH caused by error or misjudgments by the contractor; and/or
3. When actual damages, though real, will be difficult or impossible to prove; and/or
4. When there is no other avenue for LDH to recover expenses if a delay in service occurs; and/or
5. When a provider has a history of deficiencies on a current or past contract; and/or
6. When there are deliverable milestones that must be met by specific deadlines to avoid detrimental delays to service.

B. EVALUATION

1. Provide a PO for contract/amendment: _____
2. Annual value of contract/amendment by FY years: _____
3. Title of contract/amendment: _____
4. Program Office of contract/amendment: _____
5. Term of contract/amendment: _____
6. Check all boxes that apply to this contract/amendment:
 - ☐ Contract was awarded through an RFP process
 - ☐ Emergency/catastrophic preparedness contract
 - ☐ Contractor is a private entity and annual contract amount is equal to or greater than \$300,000
 - ☐ Sole source contract
 - ☐ Emergency contract (“ordinary” emergency) not with a public entity
 - ☐ Contractor has previously failed to timely complete deliverables or been assessed liquidated damages in this contract or a previous contract

7. Fill in box for summary of deliverables/services:

8. Management, operational or service risk(s) to LDH and recipients if a service deficiency occurs:

9. Monetary risks to LDH if a service deficiency occurs:

10. Other considerations in determining whether a liquidated damages addendum should be added to the contract/amendment, and resulting conclusion:

CONCLUSION/DETERMINATION:

11. Are Liquidated Damages Recommended? Yes No

Signature of Assistant Secretary/Medicaid Director/Authority

Date

Printed Name: _____