



Ambulance Contract RFP  
Proposed Liquidated Damages  
and Incentives  
Exhibit 11

## **Exhibit 11 Proposed Ambulance Contract Liquidated Damage Schedule**

The information provided in this exhibit includes both the minimum level and the preferred level of liquidated damages. The City expects to negotiate the requirements outlined in this document with the successful Offeror, however, where a minimum service level is identified, proposals that fall below the minimum service level may be deemed nonresponsive.

### **1.0 Liquidated Damages**

The parties agree the failure to comply with performance requirements will result in damages to the City and that determining actual damages caused by some failures would be difficult or impractical. Therefore, the parties agree that the liquidated damages contained herein are not a penalty but are reasonable estimates of actual damages that will occur. Payment of damages will be due thirty (30) days from the date of invoice.

If payment is not received within thirty (30) days from the date of the City's invoice, such invoice shall be considered a notice of default, and the City may thereafter withdraw such invoiced amount from the performance security the successful Offeror is required to establish and maintain.

Assessment and collection of liquidated damages does not limit the City's rights or ability to exercise any other remedy provided in this agreement or in law or equity.

No liquidated damages will be assessed during the agreed upon start-up period of the contract. Liquidated damages will accrue effective at midnight on the date after the start-up period ends. In the event the successful Offeror fails to achieve compliance with required response time standards by the end of the agreed upon start-up period of the contract liquidated damages will begin to accrue, as provided in this exhibit.

#### **A. Per Minute Damages**

Table 1a is the minimum level of service required to be considered responsive to the RFP.

To reduce excessive response times, a maximum response time threshold is listed in Table 1b: Preferred Maximum Response Time. Damages in the amount of \$50 per minute will accrue for each incident in which an ambulance fails to arrive on scene prior to the established maximum response time.

To calculate damages, any fraction of a minute will be rounded up to the next minute. For example, a unit arriving on the scene in thirteen (13) minutes and two (2) seconds would be two (2) minutes late to a call with a 12 minute maximum response time and a liquidated damage of \$100 would accrue.

*Escalating per minute damages:*

Damages will double if an ambulance fails to arrive on scene prior to twice the established response time. If the ambulance response took 24:01 minutes, in the 12 minute zone, the damages would be calculated at \$100 per minute; from the beginning of the response totaling \$1300.

Table 1a: Current Maximum On Time Performance Response Times		
	Emergent (hh:mm:ss)	Non-Emergent (hh:mm:ss)
Urban	00:12:00	00:25:00
Suburban	00:18:00	00:35:00
Rural	00:30:00	00:45:00

Table 1b: Preferred Maximum On Time Performance Response Times		
	Emergent (hh:mm:ss)	Non-Emergent (hh:mm:ss)
Urban	00:12:00	00:17:00
Suburban	00:16:00	00:21:00
Rural	00:22:00	00:24:00

**B. Upgrade from Non-Emergent to Emergent Response Damages**

As stated in 5.10 of the statement of work, if an initial emergent response is downgraded to a non-emergent response it shall be classified as a non-emergent response in its entirety. If a non-emergent response is upgraded to an emergent response it shall be classified as an emergent response (from the time of upgrade) for measuring compliance with on time performance standards. If the call is upgraded after the maximum time has been reached, liquidated damages may occur.

Incidents in which an ambulance is upgraded to an emergent response from a non-emergent response, after the maximum on-time performance response time threshold has already been reached, the response will be assessed damages as per the agreed upon liquidated damage table. If the response exceeds the maximum on-time performance response time thresholds for both emergency and non-emergency responses, the greater of the two (2) will be used.

**C. Mission Failure Damages**

Monthly escalating damages (per event) in the amount of \$1,000, \$3,000, \$5,000, and \$10,000 for the first four months, then continuing at escalating \$5000 increments per month will be assessed for events where the ambulance is not able to complete its mission of responding, treating, and transporting

patients once assigned to a call. Damages will be reset monthly. Ongoing failures will be evaluated for potential breach of contract.

Examples of mission failure include but are not limited to

- Mechanical Failure -  
In the event of any mechanical failure, the ambulance crew shall notify the City communications center via radio and request that another ambulance respond to the incident the original ambulance was assigned.

Liquidated damages will be incurred for each preventable mechanical failure. The City has the sole discretion to determine whether a failure is preventable.

Supporting documentation requested from the City shall be provided per incident.

- Equipment and Supply Failure –  
Not having assigned equipment and supplies including but not limited to stretcher, cardiac monitor, medical bag, and other critical equipment as defined by the Medical Director and/or the City listed in Exhibit 10, Colorado Springs EMS System Operating Guidelines
- Weather Failure –  
Not responding to severe weather events as defined within the statement of work and Exhibit 10, Colorado Springs EMS System Operating Guidelines
- Staffing Failure –  
Failure to staff any ambulance responding to any call as defined within the statement of work
- Ambulance Deployment Failure  
The successful Offeror shall furnish and maintain ambulances 24 hours a day, 7 days a week, within the City, that are fully equipped, staffed, and necessary to meet the statement of work

While the current level of service the City receives has a defined equipment replacement schedule and per event \$1,000 damages fee, the City strongly prefers employing the mission failure damages outlined above.

D. Failure to Respond Damages

“Not responding” is defined as no ambulance (contractor or mutual aid provider) assigned to a call in ten (10) minutes from the time the call is transferred to the contractor by the City communications center. An ambulance shall be defined as “assigned” when that ambulance is dispatched, the ambulance acknowledges the dispatch, and the ambulance is enroute to either an emergent or non-emergent response.

Escalating liquidated damages (per month) in the amount of \$1,000, \$3,000, \$5,000, and \$10,000, for the first, second, third, fourth, and continuing months at escalating \$5000 increments, respectively, will be assessed for not responding to a request for service. The escalating period can be reset when a “not responding” incident has not occurred within a rolling 12-month period from the last occurrence.

In the event that the contractor is subject to liquidated damages for not responding in an amount of \$5,000 or more, the City reserves the right to terminate the agreement.

E. On Time Performance Damages

In the event the contractor fails to meet monthly fractal response time requirements per zone, as set forth herein, additional liquidated damages will accrue as follows for emergent and non-emergent responses.

Emergent and Non-Emergent On time Performance	
89.9% to 89.1%	\$8,000
89.0% to 88.1%	\$10,000
88.0% to 87.1%	\$12,000
87.0% to 86.1%	\$14,000
86.0% to 85.1%	\$16,000
85.0% to 84.1%	\$18,000
84.0% and below	\$32,000

Failure to take action regarding response time deficiencies including but not limited to liquidated damages of \$20,000 or greater per month for three (3) or more months in a rolling 12 month period may be considered a minor breach.

For purposes of calculating the compliance percentage for response zone liquidated damages above, a minimum of 50 responses shall be required in a particular zone for purposes of determining the compliance percentage. In the event that 50 responses do not occur within a monthly period for a particular response zone, such zone will not be included for purposes of calculating the

monthly compliance percentage for response zone liquidated damages. Instead, the responses within such response zone shall be aggregated from month to month until a population of 50 responses is available, and at such time, a calculation for the percentage of compliance will be made at the end of the month when the population of responses exceeds 50.

#### F. Equipment and Supply Inspection Damages

Failure for an ambulance to have the minimum equipment and supplies required by the City as defined in Section 6 of the statement of work during any inspection by the City will result in damages in the amount of \$500 per incident.

#### G. Administrative Failure Damages

- Failure to submit required report(s) within the defined time frame will result in damages of \$50 per business day
- Failure to meet agreed upon deliverables as directed by but not limited to the Medical Director or the City will result in damages of \$50 per business day. The Medical Director and/or the City has the sole discretion to determine whether or not the deliverable has been met
- Situations in which the contractor did not meet contractual agreements may have an administrative failure damage applied. This includes but is not limited to situations that constitute breach, minor breach, or endangering the public health and safety. Damages will be \$1500 per occurrence
- All ambulances will reflect accurate status in the CAD with such status to be determined by the contractor. Every on-duty ambulance crew must be responsive to radio communications as stated in Exhibit 10 Colorado Springs EMS Operating Guidelines. Failure to reflect proper status or to be responsive to radio communication will result in liquidated damages
- Assessments of liquidated damages for willfully falsifying proper status shall be assessed at \$500 if by field staff and \$1,000 if by management staff, for each incident

#### H. Release from Scene Damages

Ambulances are considered a resource assigned to the incident and are under the direct control of the City's incident commander or delegate. Ambulance personnel shall work within the Incident Command Structure.

Damages in the amount of \$1,000 per occurrence will be assessed for leaving a scene without prior approval from the City.

## 2.0 Incentives

Incentives for exceeding the monthly response time requirements will be awarded as on time performance response time liquidated damage reductions. These reductions are based exclusively on the contractor's performance as solely determined by the City. Each and every zone must exceed the minimum in order to be considered for incentives. The level of the award will be placed at the lowest point achieved within all zones. These reductions are applied to the total per minute damages assessed. These reductions are awarded monthly and cannot be accumulated or applied to other months. Emergent and non-emergent on time performance response times will be reviewed separately; as such, emergent and non-emergent on time performance response time incentives will also be calculated separately.

Preferred Sole Agency Response Incentive Table	
97.0%-100%	100% reduction of the total minute damages
95.0%-96.9%	75% off the per minute damages assessed
93.0%-94.9%	50% off the per minute damages assessed
91.0%-92.9%	25% off the per minute damages assessed

Example: When the Contractor exceeds 93% in each zone, and whereas one zone is 97.5%, one is 95.3%, and the other is 93.2%; the incentive will be a 50% reduction of the per minute liquidated damages.

The Citywide dual agency response incentive table is the current incentive scale with CSFD and the ambulance provider achieving an 8-minute Citywide on time performance.

Citywide Dual Agency Response Incentive Table	
99.0%-100%	100% reduction of the total minute damages
97.0%-98.9%	75% off the per minute damages assessed
95.0%-96.9%	50% off the per minute damages assessed
93.0%-94.9%	25% off the per minute damages assessed