

## What are Financial Consequences?



Financial consequences provide a methodology to reduce or withhold payment due to non-compliance or non-performance of services by the provider. Please note, the agency cannot do both, only one methodology can be included in an agreement.

Financial consequences provide motivation to the vendor to complete the tasks or services according to the agreement and are not intended to be punitive. They provide reasonable assurance that the state only pays for services received.

Financial Consequences are not up to the agency's discretion and are defined in Florida Statute 287.058 and 215.971.

## Financial Consequences:



- Must be applied if provider fails to perform in accordance with the agreement
- Are required on all agreements (unless expressly exempted)
- Do not replace a termination clause
- Are not to be confused with liquidated damages

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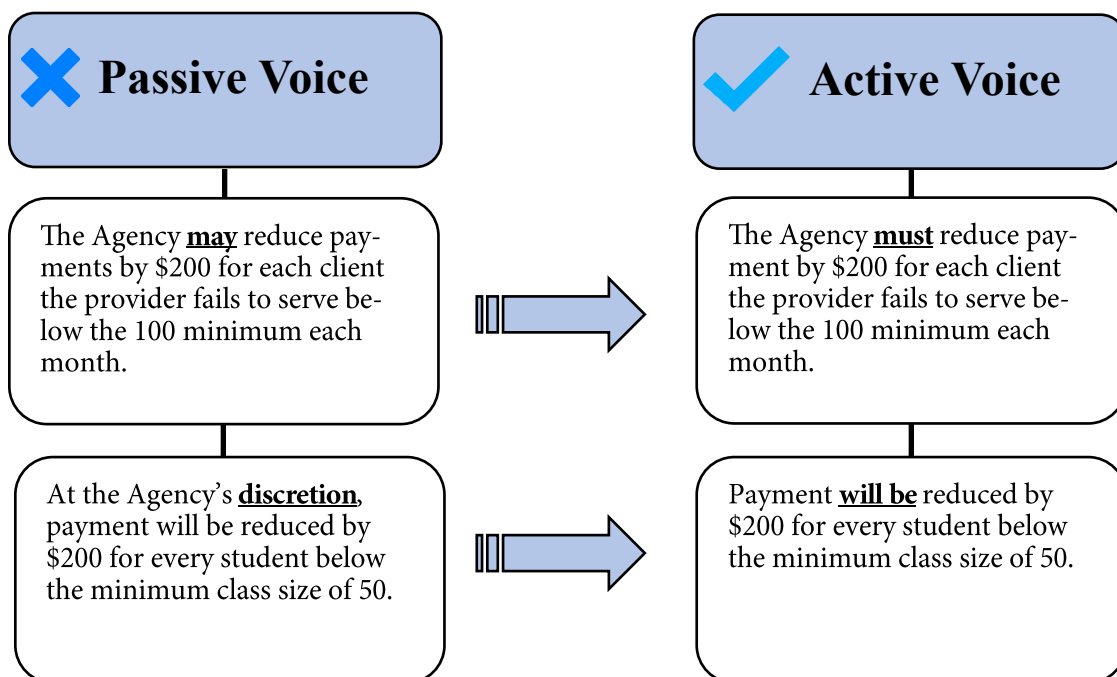
### *Did you know?*

*You can visit the Florida Accountability Contract Tracking System (FACTS) to review agency's contracts.*

<https://facts.fldfs.com/Search/ContractSearch.aspx>

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It is important to use active language rather than passive language to provide clarity and set performance expectations when writing financial consequences. For example:



# Financial Consequences at a Glance



## Financial Consequence Example

In the event of noncompliance or nonperformance by the provider, a financial consequence will be applied. Below are examples of a poor and an impactful financial consequence based on the scope of work and deliverable outlined.

Option 1 is a poor financial consequence. Option 2 is an impactful financial consequence that serves as an incentive to the provider to complete the work outlined in the agreement.

Scope of Work	Deliverable	Financial Consequence:
<p>Training USA, LLC will provide a 12-part Desktop Support training program (as defined in <b>Attachment A</b>) for 25-50 eligible participants on a full-time basis (as defined in <b>Attachment A</b>), 4 times a month facilitated with a minimum of 2 Training USA, LLC instructors, at the provider’s location (123 Heartland Lane, Tallahassee, FL 32222), Monday through Friday, 2:00 pm to 6:00 pm, excluding state holidays, for the 2016-2017 fiscal year (7/1/16 to 6/30/17). Staff will consist of 1 program director and 3 Training USA, LLC instructors (as defined in <b>Attachment A</b>).</p>	<p><b>Deliverable:</b> One month of services meeting scope of work criteria:</p> <ul style="list-style-type: none"> <li>• 4 group sessions</li> <li>• 120-minute minimum per group session facilitated by a minimum of 2 Training USA, LLC instructors</li> <li>• 25-50 eligible participants</li> <li>• 1 program director and 3 instructors</li> </ul> <p><b>Payment Amount:</b> \$25,000 per month for performing in accordance with the scope of work.</p> <p><b>Required Documentation:</b></p> <ul style="list-style-type: none"> <li>• Training Curriculum</li> <li>• Participant Sign-in Sheets (including date, start time and end time, students and instructors’ name, and location)</li> <li>• Monthly Service Level Expectation Performance Report</li> </ul>	<p><b>Option 1: Poor Financial Consequence</b> At the discretion of the agency, if the provider fails to achieve an objective, the department may reduce payment by \$100.</p> <p style="text-align: center;"><b>or</b></p> <p><b>Option 2: Impactful Financial Consequence</b> If the provider fails to achieve 1 or more of the required 4 group sessions on a monthly basis, the Department will reduce payment by \$6,025 for each group session not delivered as define in <b>Attachment A</b>.</p>

**Below is a letter notifying the provider that a financial consequence has been accessed and will be applied based on the impactful financial consequence example.**

April 15, 2017

Dear Mr. Flaherty:

Pursuant to the My Florida Market Place Service Provider Contract between Training USA, LLC and the Department of Management Services (“Department”), dated July 1, 2016, the (“Contract”), states in section II that Training USA, LLC is liable for a reduction in payment detailed in Attachment B, Service Level Expectations (SLE). In March 2017, you did not meet the SLE (#013) requirement to provide 4 group sessions. Therefore, a financial consequence of \$6,025 has been applied. Please reduce your invoice by \$6,025. If there are questions regarding this matter, please let me know.

Sincerely,  
Katrina Jenkins,  
MFMP Contract Manager