

FLORIDA DEPARTMENT OF CORRECTIONS
INVITATION TO NEGOTIATE
CONTRACTUAL SERVICES

Page 1 of 78 pages

AGENCY RELEASE DATE:

May 25, 2010

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Department of Corrections
Bureau of Procurement and Supply
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SOLICITATION TITLE:

DESIGN, BUILD, OPERATE DIALYSIS TREATMENT CENTER

SOLICITATION NO:

09-DC-8157

RESPONSES WILL BE OPENED: July 13, 2010 @ 2:00 p.m. E.T.

and may not be withdrawn within 365 days after such date and time.

RESPONDENT NAME:

RESPONDENT MAILING ADDRESS:

CITY – STATE – ZIP:

PHONE NUMBER:

FREE NUMBER:

FAX NUMBER:

EMAIL ADDRESS:

FEID NO.:

*AUTHORIZED SIGNATURE (MANUAL)

*AUTHORIZED SIGNATURE (TYPED), TITLE

* This individual must have the authority to bind the respondent.

I certify that this Response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same services (including equipment and supplies), and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this ITN and certify that I am authorized to sign this Response Submittal for the Respondent/Contractor and that the Response is in compliance with all requirements of the Invitation to Negotiate, including but not limited to, certification requirements and mandatory attestations. In submitting a Bid to an agency for the State of Florida, the Vendor offers and agrees that if the Bid is accepted, the Vendor will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the Department tenders final payment to the Respondent/Contractor.

NO BID SUBMITTED: Please provide reason for "No Bid" in this Space

RESPONDENT CONTACTS: Please provide the name, title, address, telephone number and e-mail address of the official contact and an alternate, if available. These individuals shall be available to be contacted by telephone regarding the solicitation.

PRIMARY CONTACT:

NAME, TITLE:

ADDRESS:

PHONE NUMBER:

FAX NUMBER:

EMAIL ADDRESS:

SECONDARY CONTACT:

NAME, TITLE:

ADDRESS:

PHONE NUMBER:

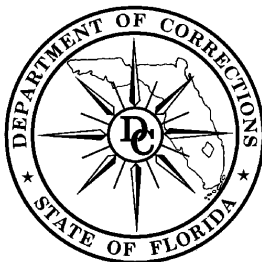
FAX NUMBER:

EMAIL ADDRESS:

"The State of Florida's general contract conditions, Form PUR 1000 (11/04), and the General Instructions to Respondents, Form PUR 1001 (11/04), as required by Rule 60A, F.A.C. are each hereby incorporated by reference. These conditions, forms and instructions are available on the internet at <http://dms.myflorida.com/purchasing>. Any terms and conditions set forth within this document shall supersede any and all conflicting terms and conditions set forth within Form PUR 1000 and Form PUR 1001.

State of Florida

Department of Corrections



INVITATION TO NEGOTIATE (ITN)

FOR

Design, Build, Operation of a Dialysis Treatment Center

ITN # 09-DC-8157

**DMS CLASS & GROUP
974-410, 974-520, and 465-570**

**RELEASED ON
May 25, 2010**

**BY THE
DEPARTMENT OF CORRECTIONS
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SECTION 1 - DEFINITIONS

The following terms used in this Invitation to Negotiate ("ITN"), unless the context otherwise clearly requires a different construction and interpretation, have the following meanings:

- 1.1 **Breach of Contract:** The condition of the relationship between the Department and the Contractor which exists when the Contractor fails to perform under the terms and conditions of the Contract which may result from this ITN.
- 1.2 **Continuous Ambulatory Peritoneal Dialysis (CAPD):** CAPD is the only type of peritoneal dialysis that is done without machines. A bag of dialysate (about two quarts) is put into the peritoneal cavity through the catheter. The dialysate stays there for about four or five hours before it is drained back into the bag and thrown away.
- 1.3 **Continuous Cycling Peritoneal Dialysis (CCPD):** CCPD is done at home using a special machine called a cycler. This is similar to CAPD except that a number of cycles (exchanges) occur. Each cycle usually lasts 1-1/2 hours and exchanges are done throughout the night while the patient sleeps.
- 1.4 **Contract Compliance Monitoring:** A comprehensive evaluation conducted a minimum of once every twelve (12) months by the Department's Contract Manager or designee to document the Contractor's compliance with the terms of the Contract and to evaluate overall Contractor performance. Frequency of monitoring is at the discretion of the Contract Manager, with unsatisfactorily functioning programs being monitored more frequently.
- 1.5 **Contract Non-Compliance:** Failure to meet or comply with any requirement or term of the Contract.
- 1.6 **Contract Services:** Where used herein, refers to those services provided by a private contractor on behalf of the Department, as described in this ITN document and pursuant to an executed contract.
- 1.7 **Contract:** The agreement resulting from this ITN between the Successful Respondent and the Department.
- 1.8 **Contractor:** The organizational entity serving as the primary Contractor with whom a contract will be executed. The term Contractor shall include all employees, subcontractors, if applicable, agents, volunteers, and anyone acting on behalf of, in the interest of, or for, the Contractor.
- 1.9 **Corrective Action Plan (CAP):** A Contractor's comprehensive written response to any deficiencies discovered in the course of contract monitoring, and plan for remediation of those deficiencies.
- 1.10 **Day:** Calendar day, unless otherwise stated.
- 1.11 **Department:** The State of Florida, Department of Corrections, referred to in this ITN document as "the Department."
- 1.12 **Desirable Conditions:** The use of the words "should" or "may" in this ITN indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a Response.
- 1.13 **Dialysis:** A treatment done when the kidneys can no longer take care of the body's fluid waste disposal. Dialysis is used when an individual develops end stage kidney failure --usually by the time the patient loses about 85 to 90 percent of their kidney function. Dialysis does the following: removes waste, salt and extra water to prevent them from building up in the body, keeps a safe level of certain chemicals in the blood, such as potassium, sodium and bicarbonate, and helps to control blood pressure.
- 1.14 **Hemodialysis:** An artificial kidney (hemodialyzer) is used to remove waste and extra chemicals and fluid from the blood.
- 1.15 **HIPAA:** Refers to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requiring the Department of Health and Human Services (HHS) to establish national standards for electronic health care transactions and national identifiers for providers, health plans, and employers. It also addresses the

security and privacy of health data. The Contractor shall comply with HIPAA, 1996 (42 U.S.C. 1320d-1329d-8), and all applicable regulations promulgated thereunder.

- 1.16 Inmates:** All persons, male and female, adult and minor, residing in institutions, or admitted or committed to the care and custody of the Department. This term encompasses all persons residing in any current or new facility, including but not limited to, correctional institutions, annexes, work camps, road prisons and forestry camps.
- 1.17 Mandatory Responsiveness Requirements/Fatal Criteria:** Terms, conditions or requirements that shall be met by the Respondent to be responsive to this ITN. These responsiveness requirements are mandatory. Failure to meet these responsiveness requirements will cause rejection of a response. Any response rejected for failure to meet mandatory responsiveness requirements will not be further evaluated.
- 1.18 Minor Irregularity:** A variation from the ITN terms and conditions which does not affect the price proposed or gives the respondent an advantage or benefit not enjoyed by the other respondents or does not adversely impact the interests of the Department.
- 1.21 Negotiation Methodology:** The process established by the Department for the purpose of conducting negotiations with qualified respondents.
- 1.22 Negotiation Meetings:** Meetings held between the Department and the top ranking respondents qualified to provide services sought by the Department and to be considered for contract award. The number of respondents with whom the Department will negotiate is established in this ITN document.
- 1.23 Peritoneal Dialysis:** A type of dialysis where the blood is cleaned inside the body using a plastic tube called a catheter into the abdomen to make an access. During the treatment, the abdominal area (peritoneal cavity) is slowly filled with dialysate through the catheter. The blood stays in the arteries and veins that line the peritoneal cavity. Extra fluid and waste products are drawn out of the blood and into the dialysate. There are two major kinds of peritoneal dialysis - Continuous Ambulatory Peritoneal Dialysis (CAPD) and Continuous Cycling Peritoneal Dialysis (CCPD).
- 1.24 Subcontract:** An agreement entered into by the Contractor with any other person or organization that agrees to perform any performance obligation for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the Department of Corrections under the terms of the Contract resulting from this ITN.
- 1.25 Successful Respondent/Contractor:** The entity that will be performing as the Contractor under any contract resulting from this ITN.
- 1.26 Treatment:** where used herein, refers to the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to an inmate patient; or the referral of an inmate for health care from one health care provider to another.
- 1.27 Vendor, Offeror, Respondent or Contractor:** A legally qualified corporation, partnership or other entity submitting a response to the Department pursuant to this ITN that will be performing as the Contractor under any resultant Contract.

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SECTION 2 – INTRODUCTION

2.1 Background

The State of Florida has a current total inmate population of approximately one hundred thousand (100,000) to date. The number of inmates in prison has risen over 20% in the last 5 years, with a 4.3% increase in the last year and is expected to continue to rise. Inmates are housed in both privately-operated and state-operated facilities throughout the State which include fifty-nine (59) major correctional institutions and seventy-five (75) other facilities, such as road prisons, various work/forestry camps, treatment centers and work release centers. Facilities operated by the Florida Department of Corrections (hereinafter referred to as “Department” or “DC” as opposed to the six private Florida prisons operated by the Department of Management Services) are grouped into four (4) regions (Regions I through IV), with Region I encompassing the panhandle, Region II North Florida, Region III Central Florida, and Region IV South Florida. In Region II, the Department operates the Reception and Medical Center (RMC) in Lake Butler, Florida which includes a licensed one hundred and fifty-bed hospital.

Pursuant to Chapter 945, Florida Statutes, the Department is responsible for the supervisory and protective care, custody, and control of all inmates. In carrying out this statutory responsibility, the Department provides availability of and access to comprehensive healthcare services. Healthcare services include medical, mental health, dental and pharmacy services provided to inmates upon admission into the correctional system and throughout their incarceration. Healthcare services may be delivered directly by the Department or through contract with private entities.

The Office of Health Services has primary responsibility for approval of medical services and manages inmate healthcare costs on a global basis. The Department is interested in contracting with a single vendor for the Design, Build, and Operation of a Dialysis Treatment Center on the Department’s property located at Lake Butler, Florida (hereinafter referred to as “Lake Butler”). At present, Dialysis services are conducted on-site; however, the present building is not adequate to handle the increasing number of dialysis patients within the Department. This Invitation to Negotiate (ITN) is for the construction of a new building and the provision of on-site dialysis services to the Department’s inmate population. **Prefabricated construction is not acceptable for this ITN.** The successful Respondent will begin construction services based on a Department approved implementation plan beginning no later than October 15, 2010. The Department-approved transition and construction schedule must be adhered to and the Respondent must provide full service delivery for inmates beginning when the building is fully operational which is anticipated to be no later than July 1, 2011.

Note: This Invitation to Negotiate may not provide a complete understanding of the required business environment and service needs, and may not contain all matters upon which a Contract resulting from this ITN shall be based. The absence of detailed descriptions in the Statement of Services Sought in Section 3 as to services desired or the omission from that section of a detailed description on any point shall be understood as meaning that the Department will negotiate all services in its best interest and in furtherance of the objectives of this ITN.

2.2 Overview of Services Sought/Statement of Purpose

The Department is requesting responses from qualified dialysis providers having at least two (2) years of business and/or corporate experience with appropriately experienced management in the provision of dialysis services. The construction company provider should have at least five (5) years of construction experience and at least one (1) year of experience (at least one contract) building a similar facility. The Department is seeking to contract with a Respondent who is able to provide dialysis services to be located at Lake Butler, Florida (subsequent to the construction phase) between the hours of 8:00 a.m., and 5:00 p.m., Monday through Friday (excluding holidays), or as needed to meet the needs of the inmate patients. Hours of operation may be extended based on the needs of the institution and/or the number of patients who require dialysis. The Department intends to enter into a single Contract with a Respondent who can guarantee construction of the building and dialysis services for all inmates that shall meet or exceed the minimum requirements outlined in Section 3, Statement of Services Sought.

The Department is also seeking from the responsive Respondent, a comprehensive design/build plan that includes all local, state, and federal standards for construction of this type of facility, to include the Medicare standards set forth for dialysis treatment facilities. It is the intent of the Department for the responsive Respondent to provide all costs associated with the permitting, design and building of this dialysis treatment center with no funding from the State of Florida.

In addition, the successful Respondent must provide similar dialysis services to female inmates at Broward Correctional Institution (BCI) by either a stationary or mobile service. The Respondent may, upon approval of the Department, place a dialysis unit at BCI for future expansion of services.

For additional general description of services, see Section 3, Statement of Services Sought.

2.3 ITN Process

The Invitation to Negotiate process to select qualified Respondent will consist of Part 1 and Part 2.

In Part 1, prospective Respondents will submit responses as described in Section 5, Response Submission Requirements. Responses submitted must meet all Mandatory Responsiveness Requirements/Fatal Criteria requirement elements listed in Section 5.1 of this ITN to be further evaluated by the Department. For all responses meeting responsiveness requirements, further evaluation of each Respondent's Statement of Qualifications, and Technical Response, will then be conducted against established evaluation criteria and the response shall be scored. These scores will be combined to determine initial ranking of qualified Respondents.

In Part 2, the Department intends to conduct negotiations with the top qualified Respondents whose proposed service delivery demonstrates ability to best meet the needs of the Department. The Department may negotiate consecutively or sequentially, whichever method best suits the Department's needs. After sufficient negotiations, the Department will request a Best and Final Offer from all qualified Respondents (which may or may not be ranked) with whom it negotiated for final consideration prior to final award decision. After submission of Best and Final Offers, the Department reserves the right to clarify any element of required service delivery or further negotiate pricing with a single respondent or all qualified respondents prior to final award. At any time during the ITN process, the Department may reject any and all responses, and may modify its statement of services sought, tasks to be performed and the deliverables. Section 4, Procurement Rules and Information, Section 5, Response Submission Requirements, and Section 6, Review, Evaluation and Negotiation Process, of this ITN document set forth the guidelines and requirements in more detail.

2.4 Pricing Methodology

It is the Department's intention, through the ITN process, to solicit responses from Respondents who have the ability to construct the treatment center in its entirety, while meeting all permitting and health standards – with no state funds expended.

The Contract resulting from this ITN will be a full risk Contract without any caps or aggregate levels after which costs are shared. The successful Contractor will be responsible for all costs associated with the provision of dialysis services.

The successful Respondent understands and agrees that the building and contents (which includes all non-removable items within the confines of the building) are the property of the State of Florida and the State will take ownership of the building and contents after construction is completed and prior to treatment and other services commencing on-site.

Respondents shall provide a single percentage rate, per treatment procedure, per service delivery mode of the current Medicare global/bundled rate as established by the Centers for Medicare and Medicaid Services (CMMS). The treatment reimbursement rate shall follow all rules, regulations, guidelines and/or policies as defined by CMMS. The Contract payment will be made on a monthly basis in a fee-for-service manner.

2.5 Start-up and Service Implementation

This Invitation to Negotiate (ITN) is for the provision of on-site dialysis services to the Department's inmate population statewide, with the contract beginning no later than October 15, 2010, for the construction phase in accordance with a Department-approved design schedule, and full service delivery of dialysis services to begin on the date on which the building becomes fully operational.

2.6 Term of Contract

It is anticipated that the initial term of any Facility Operation Contract resulting from this ITN shall be for a ten (10) year period. At its sole discretion, the Department may renew the Contract for one (1) additional ten (10) year period. The renewal shall be contingent, at a minimum, on satisfactory performance of the Contract by the Contractor as determined by the Department and subject to the availability of funds. If the Department desires to renew the Contract resulting from this ITN, it will provide written notice to the Contractor no later than ninety (90) days prior to the Contract expiration date.

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SECTION 3 STATEMENT OF SERVICES SOUGHT

For administrative purposes throughout this document, the Department is referring to a vendor, offeror or respondent as "Contractor" and any contract to be issued as a result of this ITN as "the Contract" or "this Contract". This does not mean or imply that any person or firm submitting a response to the ITN as a vendor, offeror or respondent will ultimately be awarded a contract or otherwise become a Contractor as that term is commonly understood. By utilizing the term "Contractor" and "this Contract" or "the Contract" throughout this ITN, the Department will be able to more quickly and efficiently transfer terms and conditions from this ITN document into a Contract document.

All services to be performed by, or under the direction of the Contractor under any resultant contract shall meet or exceed the minimum requirements outlined in this ITN. Under no circumstances shall service delivery meeting less than the minimum service requirements be permitted without the prior written approval of the Department; otherwise, it shall be considered that services bid will be performed in strict compliance with the requirements and rules, regulations and governance contained in this ITN and Respondents shall be held responsible therefore.

3.1 General Description of Services Sought

The Department is committed to ensuring the availability to all inmates of an acceptable level of healthcare within recognized professional standards. The Contractor shall provide comprehensive dialysis services which may include other specialized diagnostic services as required to the Department's inmate population statewide. These services shall be delivered on-site at either Lake Butler or Broward Correctional Institution (BCI). On-site delivery shall be provided by either mobile and/or stationary-based equipment. Emphasis shall be placed on timely and accurate dialysis practices. Dialysis services shall meet a minimum level of constitutional adequacy with all services delivered being medically necessary, appropriate, reasonable, and legally sufficient to address the inmate's needs.

The Department is requesting a turn-key dialysis treatment center at Lake Butler where the Respondent provides for all aspects of the service. This service shall include, but not be limited to, dialysis treatment, laboratory testing and medication administration as identified under the global reimbursement fee established by CMMS. To further describe services to be performed under the Contract resulting from this ITN, the Department provides the clarification below.

In addition, the successful Respondent must provide similar dialysis services to female inmates at BCI by either a stationary or mobile service. The Respondent may, upon approval of the Department, place a dialysis unit at BCI for future expansion of services.

- 3.1.1 Dialysis is a treatment done when the kidneys can no longer take care of the body's fluid waste disposal. Dialysis is used when an individual develops end stage kidney failure --usually by the time the patient loses about 85 to 90 percent of their kidney function.
- 3.1.2 Dialysis does the following: removes waste, salt and extra water to prevent them from building up in the body, keeps a safe level of certain chemicals in the blood, such as potassium, sodium and bicarbonate, and helps to control blood pressure.
- 3.1.3 Hemodialysis, an artificial kidney (hemodialyzer) is used to remove waste and extra chemicals and fluid from the blood. To get the blood into the artificial kidney, the doctor needs to make an access (entrance) into the blood vessels. This is done by minor surgery to the arm or leg. Sometimes, an access is made by joining an artery to a vein under the skin to make a bigger blood vessel called a fistula. However, if the blood vessels are not adequate for a fistula, the doctor may use a soft plastic tube to join an artery and a vein under the skin. This is called a graft. Occasionally, an access is made by means of a narrow plastic tube, called a catheter, which is inserted into a large vein in the neck. This type of access may be temporary, but is sometimes used for long-term treatment.

In this type of dialysis, the blood is cleaned inside the body. The doctor will do surgery to place a plastic tube called a catheter into the abdomen (belly) to make an access. During the treatment, the abdominal area (called the peritoneal cavity) is slowly filled with dialysate through the catheter. The blood stays in the arteries and veins

that line the peritoneal cavity. Extra fluid and waste products are drawn out of the blood and into the dialysate. There are two major kinds of peritoneal dialysis.

3.1.4 Continuous Ambulatory Peritoneal Dialysis (CAPD) and Continuous Cycling Peritoneal Dialysis (CCPD).

3.1.4.1 Continuous Ambulatory Peritoneal Dialysis (CAPD) is the only type of peritoneal dialysis that is done without machines. The patient does this, themselves, usually four or five times a day. They put a bag of dialysate (about two quarts) into their peritoneal cavity through the catheter. The dialysate stays there for about four or five hours before it is drained back into the bag and thrown away. This is called an exchange. The patient uses a new bag of dialysate each time they do an exchange. While the dialysate is in the peritoneal cavity, the patient can go about their usual activities.

3.1.4.2 Continuous Cycling Peritoneal Dialysis (CCPD) usually is done at night using a special machine called a cycler. This is similar to CAPD except that a number of cycles (exchanges) occur. Each cycle usually lasts 1-1/2 hours and exchanges are done throughout the night while the patient sleeps.

The successful Contractor will be required to staff the dialysis center on a forty (40) hour, five (5) days a week basis. Schedule variations may be used in order to provide the best service to inmates; however, these variations must be approved prior to implementation unless the variations schedule is less than 30 days in duration. The Contractor shall provide on-site medical supervision by a qualified physician specialist, or an agreed upon arrangement, to support inmates before, during and after treatment. These services shall be included as part of the bundled rate and not compensated in addition to the dialysis treatment fee. The successful Contractor may use the Reception and Medical Center at Lake Butler as a referral medical facility for inpatient and/or outpatient services under this Contract.

There is no requirement for any specified staffing level other than those listed in Section 3.9.2; however, the Contractor shall be required to provide comprehensive dialysis services coverage between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (excluding holidays) or as needed to meet any inmates need for dialysis treatments. Hours of operation may be extended based on the needs of the institution and/or the number of patients who require dialysis.

The Contract resulting from this ITN will be a full risk Contract without any caps or aggregate levels after which costs are shared. The successful Contractor will be responsible for all costs associated with the provision of on-site dialysis services as described in this ITN, including the designing and building of the treatment facility at Lake Butler with all appropriate permitting. This facility is intended to be a 'turn-key' project, ready for treatment of inmates. **Prefabricated construction is not acceptable for this ITN.**

3.2 Rules and Regulations

3.2.1 The Contractor shall meet all state and federal constitutional requirements as applicable to service delivery and as established by CMMS. All such laws, rules and regulations, current and/or as revised, are incorporated herein by reference and made a part of this ITN and any resulting Contract. The Contractor and the Department shall work cooperatively to ensure service delivery is in complete compliance with all such requirements.

3.2.2 The Contractor shall ensure all Contractors' staff providing services under this ITN complies with prevailing ethical and professional standards and the rules, procedures, and regulations in Section 3.2.

3.2.3 Should any of the above laws, standards, rules or regulations, Department procedures, Health Services Bulletins (HSBs) or directives change during the course of this procurement or resultant Contract term, the updated version will take precedence.

3.2.4 The Department's data must be protected from all environmental threats. The Contractor's computing equipment installation will be protected by the timely, accurate, complete, and secure backup of data including the use of similarly secured offsite storage of all Department information and other controls that manage any risks from all conditions including but not limited to fire, water/humidity, temperature, contamination (unwanted foreign material, etc), wind, unauthorized entry or access, and theft.

The Contractor must maintain support for its services following an emergency that affects the facilities and systems it maintains or those maintained by Department. Following an emergency that affects the Contractor's facilities or production systems, the Contractor must provide access and use of a backup system with the same functionality and data as its operational system within twenty-four (24) hours. The Contractor must also guarantee the availability of data in its custody to the Department within twenty-four (24) hours following an emergency that may occur within the Contractor's facilities or systems. Following an emergency that affects the Department's facilities or systems, the Contractor must continue to provide access and use of its production systems once the Department has recovered or re-located its service delivery operations.

The Contractor must host the computing equipment protected by the following:

- 3.2.4.1** Controlled access procedures for physical access to all computing equipment;
- 3.2.4.2** Controlled access procedures for electronic connections to the Contractor's network;
- 3.2.4.3** A process designed to control and monitor outside agencies access to the Contractor's information network;
- 3.2.4.4** A Firewalling device;
- 3.2.4.5** Server based antivirus/malware software;
- 3.2.4.6** Client based antivirus/malware software;
- 3.2.4.7** Use of unique userIDs with expiring passwords;
- 3.2.4.8** A process that involves collection of userID activities and regular review of these activities for unauthorized access;
- 3.2.4.9** A process that ensures up to date software patches are applied to all information resources; and
- 3.2.4.10** The Contractor shall maintain an Information Security Awareness program. This program will be designed to keep users of the system up to date on cyber security events capable of compromising the system and or network.

The Contractor's solution must operate to the Department's satisfaction on its current personal computer platform, if applicable, which currently is configured with 1Gb of RAM, a 1Ghz processor, a 100Mb NIC and Windows XP, SP3.

All Contractor activities involved in the support of its Contract and obligations to the Department must be conducted in full compliance with all applicable HIPAA (Health Insurance Portability and Accountability Act) requirements, including but not limited to those in the HIPAA Security Rule, Part 164, Subpart C.

- 3.2.5** The Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U. S. C. §1320d-8) and all applicable regulations promulgated thereunder. Such compliance shall be required as outlined in Attachment 8 – Business Associate Agreement for HIPAA which is incorporated herein as if fully stated.

The Contractor shall not disclose any information concerning inmates, specifically concerning inmate transfers/referrals, to parties outside the Department.

- 3.2.6** Prior to the execution of any subcontractor agreements for the performance of any of its functions under this Contract, the Contractor shall ensure all subcontractor agreements are approved by the Department's Contract Manager or designee and contain provisions requiring the subcontractor to comply with all applicable terms and conditions of the Contract resulting from this ITN. Subcontractors must comply with the same terms and conditions that the Contractor must comply with in any Contract resulting from this solicitation.
- 3.2.7** The Contractor agrees to modify its service delivery, including addition or expansion of healthcare services in order to meet or comply with changes required by operation of law or due to changes in practice standards or regulations, or as a result of legal settlement agreement or consent order or change in the Department's mission.
- 3.2.8** The Contractor shall supply all equipment necessary to provide services outlined in this solicitation. Contractor equipment may require connection to the Department's information network. Should the Contractor's equipment be

required to connect to the Department's information network, all Federal, State and Department rules, regulations, and guidelines for data transfer shall apply.

- 3.2.9** The Contractor must be compliant with the Health Insurance Portability and Accountability Act. Any service, software, or process to be acquired by the Department that transmits electronic protected health information must do so with encryption provided as a part of the service, software, or process. In addition, the transmission and encryption scheme supplied by the Contractor must be approved by the Department prior to acquisition.
- 3.2.10** All Contractors must be able to comply with Department procedures that relate to the protection of the Department's data and its collective information security which include but are not limited to: 206.007 User Security for Information Systems Office of Information Technology internal Remote Access and Virtual Private Network procedure; and the Contractor, its subcontractors, and their staff will be held to contractual obligations of confidentiality, integrity, and availability in the handling and transmission of any Department information.
- 3.2.11** The Contractor must guarantee the availability of data in its custody to the Department during an emergency that may occur at the Respondent or the Department.
- 3.2.12** The Department must retain ownership of all Department provided information or any information related to the Department generated as a result of or in participation with this service.
- 3.2.13** No disclosure or destruction of any Department data can occur without prior express consent.
- 3.2.14** The Contractor shall provide for the timely and complete return of all Department information in an acceptable format when the contractual relationship effectively terminates.
- 3.2.15** The Contractor shall provide certification of its destruction of all of the Department's data in accordance with NIST Special Publication 800-88, when the need for the Contractor's custody of the data no longer exists.
- 3.2.16** The Contractor shall ensure Contractor's staff, performing services under the Contract resulting from this ITN at institutional sites, is vaccinated against Hepatitis in accordance with the Department of Health's guidelines prior to the start of service delivery. The Contractor shall provide the institutional Senior Registered Nurse Supervisor with proof of vaccination prior to the start of service delivery by the staff member. The Contractor shall bear all costs associated with the vaccination of their staff or subcontractor staff.
- 3.2.17** Any changes in the scope of service required, to ensure continued compliance with state or federal laws, statutes or regulations, legal settlement agreement or consent order, or Department policy, regulations or technical instructions will be made in accordance with Section 7.6, Contract Modifications.

3.3 Permits, Licenses, and Insurance Documentation

The Contractor shall have and at all times maintain, at their own cost, documents material to the resultant Contract - including but not limited to current copies of all required state and federal licenses, permits, registrations and insurance documentation, and bear any costs associated with all required compliance inspections, environmental permitting designs, permitting fees related to site design, State Fire Marshall permits and inspections, and any experts required by the Department to review specialized medical requirements. The Contractor shall maintain copies of the foregoing documents which include, but are not limited to, current copies of the following:

- 3.3.1** the face-sheet of the Contractor's current insurance policy showing sufficient coverage as indicated in Section 7.17.
- 3.3.2** any applicable state and/or federal licenses related to services provided under this ITN as applicable.

The above-referenced licenses, permits, and registrations must be issued and in effect at the time of response submission. Copies shall be submitted with the response per Section 5.2.1 of this ITN document.

The Contractor shall ensure all such licenses, permits, and registrations remain current and in-good-standing throughout the term of the Contract. Any additions/deletions/revisions/renewals to the above documents made during the Contract period shall be submitted to the Contract Manager and the Department's Deputy Assistant Secretary of Health Services - Administration within fifteen (15) days of said addition/deletion/revision/renewal. All permits, permitted plans, Certificates of Occupancy, As-Built drawings, maintenance and operating manuals, and shop drawings shall be submitted to the Department prior to occupancy.

3.4 Communications

3.4.1 Contract communications will be in three (3) forms: Routine, Informal, and Formal. For the purposes of the Contract, the following definitions shall apply:

Routine: All normal written communications generated by either party relating to service delivery. Routine communications must be acknowledged or answered within thirty (30) calendar days of receipt

Informal: Special written communications deemed necessary based upon either Contract compliance or quality of service issues. Must be acknowledged or responded to within fifteen (15) calendar days of receipt.

Formal: The same as informal but more limited in nature and usually reserved for significant issues such as Breach of Contract, failure to provide satisfactory performance, imposition of liquidated damages, or Contract termination. Formal communications shall also include requests for changes in the scope of the Contract and billing adjustments. Must be acknowledged upon receipt and responded to within seven (7) calendar days of receipt.

3.4.2 The Contractor shall respond to informal and formal communications in writing, transmitted by facsimile and/or email, with follow-up by hard copy mail.

3.4.3 A date/numbering system shall be utilized by the Contractor, for tracking of formal communication.

3.4.4 The only personnel authorized to use formal Contract communications are the Department's Deputy Assistant Secretary of Health Services-Administration, Contract Manager, Contract Administrator, and the Contractor's CEO or Contractor's Representative. Designees or other persons authorized to utilize formal Contract communications must be agreed upon by both parties and identified in writing within ten (10) days of execution of the Contract. Notification of any subsequent changes must be provided in writing prior to issuance of any formal communication from the changed designee or authorized representative.

3.4.5 In addition to the personnel named under formal Contract communications, personnel authorized to use informal Contract communications include any other persons so designated in writing by the parties.

3.4.6 In addition to the Contract communications noted in Section 3.4.1 in this Contract, if there is an urgent administrative problem, the Department will make contact with the Contractor and the Contractor shall orally respond to the Contract Manager or his/her designee within two (2) hours. If a non-urgent administrative problem occurs, the Department will make contact with the Contractor and the Contractor shall orally respond to the Contract Manager or his/her designee within forty-eight (48) hours. The Contractor shall respond to inquiries from the Department by providing all information or records that the Department deems necessary to respond to inquiries, complaints, or grievances from or about inmates within three (3) working days of receipt of the request. The Contract Manager shall be copied on all such correspondence.

3.5 Service Locations and Service Times

3.5.1 The Contractor shall provide services at the Reception and Medical Center at Lake Butler, in a building of their construction upon Department property. **Services at Broward CI may be either stationary or mobile in order to meet the needs of the inmate population.**

3.5.2 The Contractor shall have an administrative office located within the State of Florida.

3.5.3 Service Times: The Contractor shall ensure services as required are available Monday through Friday, excluding holidays, between the hours of 8:00 am and 5:00 pm. Hours of operation may be extended based on the needs of the institution and/or the number of patients who require dialysis. Schedule variations may be used in order to provide the best service to inmates; however, these variations must be approved prior to implementation unless the variations schedule is less than 30 days in duration.

3.6 Administrative Requirements, Space, Equipment & Commodities

The Department will not provide any administrative functions or office support for the Contractor (e.g., clerical assistance, office supplies, copiers, fax machines, and preparation of documents) except as indicated in this ITN.

3.7 Additional Services to be Provided

3.7.1 The Contractor shall provide either an on-site Nephrologist or have a Nephrologist accessible to ensure patient care meets national standards. Reimbursement shall be as defined in Section 3.1. Reimbursement for related services beyond the scope of this ITN must be previously approved and shall be paid at a percentage of the prevailing/current Medicare allowable rate as defined by CMMS for the State based on the date of service.

3.7.2 The Contractor shall provide Peritoneal Dialysis services as defined in Section 1.3, at no cost to the Department.

3.7.3 The Contractor shall provide, at no cost to the Department, an ongoing educational program for inmates and staff which may or may not include audiovisual material and/or devices to enhance the learning experience.

3.7.4 The Contractor shall obtain all medication and laboratory services, not included in the Medicare bundled rate for dialysis services, from the Department and/or the Department's contracted vendor(s) unless approved prior to the start of service. The Contractor shall reimburse the Department at cost without administrative fees by either credit or monthly fee transfer.

3.7.5 The Contractor shall provide a proven Electronic Medical Record (EMR) system that is in current use by the successful Contractor. The EMR must be able to download medical data for inclusion in the Department's medical record, to run reports and to store information for access by the Department. The Contractor shall grant the Department access to the Contractor's EMR through secured web integration.

3.7.6 The Contractor shall provide a complete and state of the art water treatment system that meets and/or exceeds the requirements for dialysis patient treatments. The Contractor shall maintain and upgrade this system throughout the life of the contract.

3.7.7 The Contractor shall provide complete and state of the art dialysis machines that meets and/or exceeded the community standards for dialysis patient treatments. The Contractor shall maintain and upgrade these machines throughout the life of the contract.

3.8 Audits, Investigations and Legal Actions

3.8.1 The Contractor shall notify the Contract Manager by facsimile or other writing within twenty-four (24) hours (or next business day, if the deadline falls on a weekend or holiday) of its receipt of notice of any audit, investigation, or intent to impose disciplinary action by any state or federal regulatory or administrative body, or other legal actions or lawsuits filed against the Contractor that relate in any way to service delivery as specified in the resultant Contract. In addition, the Contractor shall provide copies of the below-indicated reports or documents within seven (7) working days of the Contractor's receipt of such reports or documents:

3.8.1.1 audit reports for any reportable condition, complaints filed and/or notices of investigation from any state or federal regulatory or administrative body (such as HIPAA or risk assessment audits or surveys conducted on or by the Department);

3.8.1.2 warning letters or inspection reports issued, including reports of "no findings," by any state or federal regulatory or administrative body;

3.8.1.3 all disciplinary actions imposed by any state or federal regulatory or administrative body for the Contractor or any of the Contractor's employees; and

3.8.1.4 notices of legal actions and copies of claims.

3.9 Contractor Staffing Requirements

3.9.1 General Administrative Requirements

- 3.9.1.1 The Department considers adequate management to be crucial to the Contractor's ability to satisfactorily meet its contract requirements. Therefore, the Contractor shall establish and maintain throughout the term of the contract a Contract Management Team that will work directly with the Department. This team shall include, but is not limited to, one senior executive, an account representative and a customer service representative. The Contract Management Team must have the experience and authority to make routine decisions regarding the Contract such as developing and implementing corrective action plans, facilitating complaint resolution, and providing effective communication about organization and program changes
- 3.9.1.2 Additionally, the Contractor's staff shall liaise with and maintain a good working relationship with Department staff and other providers working with the Department.
- 3.9.1.3 The Contractor shall distribute documentation, as needed, to those individuals/institutions rendering healthcare services to inmates that delineate Department standards and the processes and procedures that must be followed when billing for services to Department inmates.

3.9.2 Contractor Key Administrative Staff Positions and Responsibilities

The Contractor shall provide the following minimum key administrative staff positions in support of this Contract (both Design/Build and Operations):

- 3.9.2.1 **Chief Executive Officer (or equivalent title)** – The Chief Executive Officer (CEO) is the highest ranking officer in the Contractor's company or organization. The CEO shall have a minimum of two (2) years experience as a CEO of a corporation regularly engaged in dialysis services or a medically similar service.
- 3.9.2.2 **Administrative Project Manager (or equivalent title)** – The Administrative Project Manager is the individual who will have corporate responsibility for administration of the Contract (there will be one Administrative Project Manager for Design/Build and one for Operations). This individual shall have a minimum of two (2) years experience within the last five (5) years at the management level providing direct administrative oversight of dialysis services or a medically similar service.
- 3.9.2.3 **Chief Medical Officer (or equivalent title)** - The Chief Medical Officer (CMO) is the highest ranking medical physician in the Contractor's company or organization. The CMO shall have a minimum of two (2) years experience as a physician of a corporation regularly engaged in dialysis services.
- 3.9.2.4 **Construction Project Manager (or equivalent title)** – The Construction Project Manager is the individual who will have corporate responsibility for the construction of the facility as it relates to the parameters of the contract. This individual shall have a minimum of five (5) years experience within the last seven (7) years at the management level providing direct oversight of similar construction projects.
- 3.9.2.5 **Project Engineer (or equivalent title)** - The Project Engineer is the individual who will have corporate responsibility for the engineering of the facility as it relates to the parameters of the Contract. This individual shall have a minimum of five (5) years experience within the last seven (7) years at the management level providing direct oversight of similar engineering projects.
- 3.9.2.6 **On-Site Contract Personnel** – All On-Site Contract **employees must be certified by a national accreditation organization in Dialysis or must obtain national certification within one year of employment.** The On-Site Supervisor must be certified at the start of service delivery.

3.9.3 Background/Criminal Record Checks

- 3.9.3.1** The Contractor's staff assigned to this Contract performing services pursuant to the Contract shall be subject, at the Department's discretion (with the exception of provisions set forth in Section 3.10.2 of this solicitation) and expense, to a Florida Department of Law Enforcement (FDLE) Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) background/criminal records check to include Level 2 fingerprinting. This background check will be conducted by the Department and/or a third-party vendor and may occur or re-occur at any time during the Contract period. The use of criminal history records and information derived from such records checks are restricted pursuant to Section 943.054, F.S. The Department shall not disclose any information regarding the records check findings or criteria for disqualification or removal to the Contractor. The Department shall not confirm to the Contractor the existence or nonexistence of any criminal history record information. No person shall begin employment within any institution without written notification to, and confirmation from, the Contract Manager that the individual has been approved by the appropriate Department personnel to enter the institution. The use of criminal history records and information derived from such records checks are restricted pursuant to Section 943.054, F.S. The Department shall not disclosed any information regarding the records check findings or criteria for disqualification or removal to the Contractor. The Department shall not confirm to the Contractor the existence or nonexistence of any criminal history record information. In order to carry out this records check, the Contractor shall provide to the respective Contract Manager, within ten (10) days of Contract execution, the following data for any individual assigned to provide services under the Contract: Full Name, Race, Gender, Date of Birth, Social Security Number, Driver's License Number and State of Issue. If requested, individuals providing services under the Contract shall submit to fingerprinting by the Department of Corrections for submission to the Federal Bureau of Investigation (FBI). The Contractor shall not consider new employees to be on permanent status for entry to Department facilities until a favorable report is received by the Department from the FBI.
- 3.9.3.2** No individual providing services under this Contract may be under active supervision or jurisdiction of any parole, probation or correctional authority.
- 3.9.3.3** The Contractor shall immediately report any new arrest, criminal charges or convictions of a current employee, if known, under this Contract to the respective Contract Manager.
- 3.9.3.4** The Contractor shall disclose any business or personal relationship a Contractor staff person, officer, agent or potential hiree may have with anyone presently incarcerated or under the supervision of the Department.
- 3.9.3.5** Note that a felony or first-degree misdemeanor conviction, a plea of guilty or nolo contendere to a felony or first-degree misdemeanor crime, or adjudication of guilt withheld to a felony or first-degree misdemeanor crime does not automatically bar the Contractor from hiring the proposed employee. However, the Department reserves the right to prior approval in such cases. Generally, two (2) years with no criminal history is preferred. The Contractor shall make full written report to the Contract Manager within three (3) calendar days whenever an employee has a criminal charge filed against them, or an arrest, or receives a Notice to Appear for violation of any criminal law involving a misdemeanor, or felony, or ordinance (except minor violations for which the fine or bond forfeiture is two hundred dollars (\$200) or less) or when Contractor or Contractor's staff has knowledge of any violation of the law rules, directives or procedures of the Department.

3.10 Offender Based Information System (OBIS)

All documentation shall comply with applicable Florida Statutes, relevant sections of Florida Administrative Code, pertinent Department Procedures, and Health Services' Bulletins/Technical Instructions. The Contractor shall utilize the Offender Based Information System (OBIS).

3.10.1 OBIS Data Entry

The Contractor shall ensure information is available for input into the Department's existing information systems OBIS or Computer Assisted Reception Process (CARP) in order to record daily operations. Data includes, but is not limited to information or reports, billing information and auditing data to ensure accuracy of OBIS and CARP information, plus any other Department system or component developed for Health Services or any Department system or component deemed necessary for Health Services operations. When requested, the Contractor shall provide the Department data that can be uploaded into the system. The data will meet all the parameters of the Department and will be provided at no cost to the Department. This data shall conform to all standard Department, State and/or Federal rules, guidelines, procedures and/or laws covering data transfer.

3.10.2 OBIS Use and Training

If deemed necessary by the Department, the Contractor will make available appropriate personnel for training in the Health Services' component of the Offender Based Information System (OBIS-HS). Training will be provided by the Department and will be conducted at designated locations across the state. Personnel required to attend include the Data Entry Operators and any personnel entering or assessing data in the OBIS-HS system. The Contractor is responsible for payment of travel expenses for its employees, in the event that such training is required. Failure of the Contractor to provide sufficient personnel for training is not an acceptable reason for not maintaining OBIS information current and as noted earlier such failure shall be deemed breach of Contract. If there is any reason the Contractor is directed to access the Department's information network, each employee doing so must have undergone a successful level 2 background check as defined in Chapter 435, F.S.

3.11 Reporting Requirements

3.11.1 Standard Reporting

All reports shall have the capability of being queried, sorted or filtered by any field contained in the report or by data parameters, as applicable, and reports shall be readable on screen, printable and shall be downloadable into an excel format with final report format to be approved by the Contract Manager. The final listing of required reports will be determined during negotiations. **At a minimum**, the monthly reports shall include:

- 3.11.1.1 Monthly number of dialysis treatments by type and number;
- 3.11.1.2 Catheter placements by type and number;
- 3.11.1.3 Treatment complications by type and number; and
- 3.11.1.4 All other treatments/procedures not mentioned above by type and number.

3.11.2 Ad Hoc Reports

The Department reserves the right to require additional reports or information pertaining to Contract compliance or that may be required to respond to grievances, inquiries, complaints, and other questions raised by inmates or other parties. The Contractor shall submit the report or information within three business days after receipt of the request. When time is of the essence, the Contractor will make every effort to answer the request as soon as possible so the Department can respond in a timely manner to the authority or party making the request.

3.12 Contractor Performance

The Department desires to contract with a provider who clearly demonstrates its willingness to be held accountable for its performance in successfully delivering building construction and dialysis services under a resultant Contract. Therefore, the Department has developed the following Performance Outcomes, Measures, and Standards and Other Contract Requirements categories which will be used to determine Contractor's level of compliance with contract terms and conditions.

By execution of this Contract, the Contractor hereby acknowledges and agrees its performance under the Contract shall meet the standards set forth below.

A description of each of the Performance Measure categories is provided below:

3.12.1 Performance Outcomes, Measures, and Standards

Listed below are the key Performance Outcomes, Measures, and Standards, deemed most crucial to the success of the overall desired service delivery. The Contractor shall ensure that the stated performance outcome and standard (level of achievement) are met. Performance shall be measured as indicated, beginning the third month after which service has been fully implemented.

The following Performance Outcomes, Measures, and Standards shall be measured based on monitoring methodologies adopted by the Office of Health Services in compliance with Section 3.13 Monitoring Methodologies.

3.12.1.1 Wait Time for Initial Requests

Outcome: Ninety percent (90%) of Initial Requests for care shall not have wait times that exceed more than 15 days unless due to inmate security risks.

Measure: The date of requested Initial Requests compared to the actual date of performance of the exam.

Critical Standard: Achievement of outcome must meet minimum of ninety-five percent (95%) on a monthly basis.

3.12.1.2 Wait Time for Urgent Requests

Outcome: Ninety percent (90%) of Urgent Request for care shall not have wait times that exceed more than five (5) days unless due to inmate security risks.

Measure: The date of requested Urgent Request compared to the actual date of performance of the exam.

Critical Standard: Achievement of outcome must meet minimum of ninety-five percent (95%) on a monthly basis.

3.12.1.3 Compliance with ACA standards relating to Dialysis procedures

Outcome: Dialysis procedures and related reports shall comply with all accreditation requirements established by the American Correctional Association.

Measure: Review of reports and findings by ACA related to healthcare delivery system at the institution.

Critical Standard: Achievement of outcome must meet a minimum of one hundred percent (100%) on a monthly basis.

3.12.1.4 Timely Submission of Corrective Action Plans

Outcome: All Corrective Action Plans shall be timely submitted within timeframe in Section 3.13.2.

Measure: Date of receipt of Contractor's Corrective Action Plan as compared to date of receipt of monitoring report.

Critical Standard: Achievement of outcome must meet one hundred percent (100%) on a quarterly basis.

3.12.1.5 Timely Corrections of Deficiencies per Timeframes Established in the Corrective Action Plan

Outcome: All deficiencies addressed in a Corrective Action Plan shall be timely corrected.

Measure: Date of correction of deficiency as compared to date for correction indicated in Contractor's Corrective Action Plan.

Critical Standard: Achievement of outcome must meet one hundred percent (100%) on a quarterly basis.

3.12.1.6 Timely Compliance with Medicare Certification Requirement

Outcome: All services shall comply with all requirements established for a Medicare End Stage Renal Disease (ESRD) provider.

Measure: Certification as established by the Centers for Medicare and Medicaid Services (CMS).

Critical Standard: Achievement of outcome must meet one hundred percent (100%) on a quarterly basis.

3.12.1.7 Compliance with Epidemiological Investigations/Infection Control Procedures/Reports/Audits

Outcome: All services shall comply with all requirements established for epidemiological/infection control procedures within a dialysis unit.

Measure: Services in compliance with established published national guidelines and requirements of the Centers for Medicare and Medicaid Services (CMS).

Critical Standard: Achievement of outcome must meet ninety five (95%) on a quarterly basis.

Any failure by the Contractor to achieve the required level of any Performance Outcomes, Measures, and Standards identified above shall result in assessment of liquidated damages as stated in Section 3.14.1.

3.12.2 Other Contract Requirements

Listed below are the Other Contract Requirements crucial to the success of the overall desired service delivery that will be monitored for Contract compliance in accordance with Section 3.13.2, Monitoring Other Contract Requirements. Other Contract Requirements include, but are not limited to, the following:

- 3.12.2.1** Utilization of approved treatment procedures and/or alternative procedures as determined by the Department;
- 3.12.2.2** Updates to the Offender Based Information System shall be available for input within five (5) business days of inmate/patient encounter;
- 3.12.2.3** Provision of dialysis services in accordance with Contract terms and conditions;
- 3.12.2.4** Timely delivery of reports;
- 3.12.2.5** Timely compliance with Department requests for information utilized in responding to inquiries, audits, investigations, or other matters.

NOTE: Failure to comply with Other Contract Requirements will subject the Contractor to liquidated damages per Section 3.14. Damages will not apply however, to deficiencies regarding invoice submission.

3.13 Monitoring Methodologies

3.13.1 Monitoring Performance Outcomes and Standards

The Department's Contract Manager and/or designee will monitor the Contractor's service delivery statewide on an annual basis to determine if the Contractor has achieved the required level of performance for each Performance Outcome and Standard identified in Section 3.12.1. For those Performance Outcomes that have monthly standards, monitoring shall be conducted quarterly, but will measure monthly performance. Performance shall be assessed as specified beginning no sooner than the sixty-first (61st) day after services have been implemented.

If the Department determines the Contractor has failed a Performance Outcome and Standard, the Contractor will be sent a formal Contract communication in accordance with Section 3.4, Communications.

Note: The Contractor shall correct all identified non-compliant service delivery issues related to the Contractor's failure to meet the Performance Outcomes and Standards identified in Section 3.12.1, Performance Outcomes and Standards; however, this shall **not** negate the fact that a Performance Outcome and Standard has not been

met and that liquidated damages will be imposed in accordance with Section 3.14.1, Liquidated Damages For Failure to meet Performance Outcomes and Standards.

3.13.2 Monitoring Other Contract Requirements

Monitoring for Other Contract Requirements, identified in Section 3.13.2, will be conducted as determined necessary, but no less than annually, beginning no sooner than the sixty-first (61st) day after services have been implemented. A Contract Monitoring tool will be developed by the Department's Office of Health Services. The monitoring tool will be utilized in review of the Contractor's performance. Such monitoring may include, but is not limited to, both announced and unannounced site visits.

To ensure the Contract Monitoring process is conducted in the most efficient manner, the Department has established a Contractor's Self-Certification of Compliance checklist, which will be incorporated as an attachment to the Contract Monitoring tool to be developed. The Self-Certification of Compliance will be retained in the Contract Manager's file and the official Contract file. The Contractor shall complete the Self-Certification of Compliance checklist within thirty (30) days of execution of the Contract resulting from this ITN and forward the original to the Contract Manager.

The Department's Contract Monitor or designee will provide a written monitoring report to the Contractor within three (3) weeks of a monitoring visit. Non-compliance issues identified by the Contract Manager or designee will be identified in detail to provide opportunity for correction where feasible.

Within ten (10) days of receipt of the Department's written monitoring report (which may be transmitted by e-mail), the Contractor shall provide a formal Corrective Action Plan (CAP) to the Contract Manager (e-mail acceptable) in response to all noted deficiencies to include responsible individuals and required time frames for achieving compliance. Unless specifically agreed upon in writing by the Department, time frames for compliance shall not exceed thirty (30) days from the date of receipt of the monitoring report by the Contractor. CAP's that do not contain all information required shall be rejected by the Department in writing (e-mail acceptable). The Contractor shall have five (5) days from the receipt of such written rejection to submit a revised CAP; this will **not** increase the required time for achieving compliance. All noted deficiencies shall be corrected within the time frames identified or the Department will impose liquidated damages in accordance with Section 3.14, Liquidated Damages. The Contract Manager, Contract Monitoring Team, or other designated Department staff may conduct follow-up monitoring at any time to determine compliance based upon the submitted CAP.

The Department reserves the right for any Department staff to make scheduled or unscheduled, announced or unannounced monitoring visits.

During follow-up monitoring, any noted failure by the Contractor to correct deficiencies for Other Contract Requirement violations identified in the monitoring report within the time frame specified in the CAP shall result in application of liquidated damages as specified in Section 3.14.2, Liquidated Damages for Other Contract Requirements.

3.13.3 Repeated Instances

Repeated instances of failure to meet either the Performance Outcomes and Standards or Other Contract Requirements Outcomes and Standards or to correct deficiencies thereof may, in addition to imposition of liquidated damages, result in determination of Breach of Contract and/or termination of the Contract in accordance with Section 7.3, Termination.

3.14 Liquidated Damages

By executing a Contract that results from this ITN, the Contractor expressly agrees to the imposition of liquidated damages.

The Department's Contract Manager will provide written notice to the Contractor's Representative of all liquidated damages assessed, accompanied by detail sufficient for justification of assessment. Within ten (10) days of receipt of a written notice of demand for damages due, the Contractor shall forward payment to the Contract Manager. Payment shall be for the appropriate amount, be made payable to the Department, and be in the form of a cashier's check or money order. As an

alternative, the Contractor may issue a credit, for the amount of the liquidated damages due, on the next monthly invoice following imposition of damages; documentation of the amount of damages imposed shall be included with the invoice.

3.14.1 Liquidated Damages For Failure to meet Performance Outcomes and Standards

The Contractor hereby acknowledges and agrees that its performance under the Contract shall meet the Performance Outcomes and Standards set forth in Section 3.12.1, Performance Outcomes, Measures and Standards. If the Contractor fails to meet any Performance Outcome and Standard, the Department will impose Liquidated Damages as specified below:

3.14.1.1 Wait Time for Initial Requests

For failure to comply with the Standard listed in Section 3.12.1.1, \$1,000 per month per inmate per institution at which the Standard was not met.

3.14.1.2 Wait Time for Urgent Requests

For failure to comply with the Standard listed in Section 3.12.1.2, \$1,000 per month per inmate per institution at which the Standard was not met.

3.14.1.3 Compliance with ACA standards

In the event any institution fails to maintain ACA accreditation (Section 3.12.1.3) due to the non-compliance of the delivery system, liquidated damages in the amount of fifty thousand dollars (\$50,000.00) will be assessed against the Contractor per institution where accreditation is lost. Full compliance with ACA Standards and re-obtainment of accreditation must be reestablished as soon as possible. Liquidated damages shall be assessed per incident of loss of accreditation.

3.14.1.4 Timely Submission of Corrective Action Plans

In the event that the Contractor receives a Monitoring Report requiring a Corrective Action Plan (CAP) to be submitted and fails to submit a CAP responding to each specified written deficiency within the time frames specified in Section 3.12.1.4, liquidated damages in the amount of one thousand dollars (\$1,000.00) per day for each day the CAP is untimely submitted will be imposed.

3.14.1.5 Timely Corrections of Deficiencies per Timeframes Established in the Corrective Action Plan (CAP)

In the event the Contractor fails to correct deficiencies noted in the Department's monitoring report within the timeframes indicated in the CAP (Section 3.12.1.5), liquidated damages in the amount of one thousand dollars (\$1,000.00) per day per deficiency where deficiencies have not been timely corrected shall be imposed until such time as all noted deficiencies are corrected.

3.14.1.6 Timely Compliance with Medicare Certification Requirement

In the event the Contractor fails to timely comply with Medicare Certification requirement as noted in the Department's monitoring report within the timeframes indicated in the CAP (Section 3.12.1.6), liquidated damages in the amount of one thousand dollars (\$1,000.00) per day for each location.

3.14.1.7 Compliance with Epidemiological Investigations/Infection Control Procedures/Reports/Audits

In the event the Contractor fails to comply with Epidemiological Investigation/Infection Control Procedures/Reports/Audits as noted in the Department's monitoring report within the timeframes indicated in the CAP (Section 3.12.1.7), liquidated damages in the amount of one thousand dollars (\$1,000.00) per day shall be imposed until such time as all efficiencies are corrected.

3.14.2 Liquidated Damages For Other Contract Requirements

For failure to meet Other Contract Requirements Outcomes and Standards, set forth in Section 3.12.2, Other Contract Requirements, liquidated damages will be imposed, per institutional site, as follows:

3.14.2.1 Compliance with any other Term or Condition of the Contract involving delivery of services not otherwise listed above

In the event the Contractor fails to correct deficiencies noted in the Department's monitoring report within the time frames indicated in the CAP, liquidated damages in the amount of one thousand dollars (\$1,000.00), per day, per deficiency where deficiencies have not been timely corrected shall be imposed until such time as all noted deficiencies are corrected.

3.14.3 Liquidated Damages for Repeated Failures

Repeated failure to meet either Critical Standards or other Standards in consecutive months will result in liquidated damages being doubled. The Department will allow up to the sixty-first (61st) day as a "grace period" following implementation of initial services during which no damages will be imposed for failure to achieve the standards.

3.15 Deliverables

The following services or service tasks are identified as deliverables for the purposes of this ITN:

3.15.1 The Design and Construction of a Dialysis Treatment Center;

3.15.2 Dialysis Services to inmates at the Reception and Medical Center at Lake Butler and at Broward C. I.; and

3.15.3 Compliance with Contract terms and conditions.

3.16 Value-Added Services

Value-added services include any services, including additional services that the Contractor offers to provide as part of the Contract resulting from the ITN, that clearly exceed the minimum requirements of required service delivery and/or that may be unknown to the Department at this time.

Any value-added service proposed by the Contractor may become a requirement of the Department's minimum service specification as set forth in the request for Best and Final Offers (BAFO) from respondents. Any value-added services offered in the BAFO and accepted by the Department shall be set forth in the final Contract.

3.17 Building Construction Requirements

DESIGN, BUILD AND OPERATE, DIALYSIS TREATMENT CENTER BUILDING REQUIREMENTS

- Program Requirements:** The design of the building shall provide for:
1. A waiting area which shall accommodate wheel chairs and/or stretchers;
 2. A security officer's station to control the waiting area and access to other portions of the building;
 3. An inmate toilet near the waiting area and the security officer's station;
 4. Two holding cells within easy access from the security officer's station;
 5. Space for thirty-six(36) treatment chairs; including 2 isolation treatment rooms designed and constructed for treating patients with infectious/communicable diseases and 2 secure treatment rooms for treating patients requiring confinement and restraint;
 6. Areas/rooms for outpatient consultation and examination which must provide for patient confidentiality; the space or spaces may be multi-functional; provided that confidentiality is maintained;
 7. Staff Offices, Toilet and Break Areas;
 8. Records room;

9. Lab;
10. Data processing area;
11. Circulation Space;
12. Operational support spaces for mixing and handling of drugs, supplies, and general storage and the production of RO water;
13. Mechanical Room or rooms;
 - A] for electric panels, transformers and distribution;
 - B] air handling devices;
14. The existing Dialysis Facility shall remain in operation throughout the construction of the proposed new facility and the design of the proposed new facility shall provide for it to remain in operation until the new building is in operation. This requirement includes the construction of a 6 feet wide walk, meeting accessibility requirements, around the construction area to the existing dialysis treatment facility. Exact location to be determined.

**Applicable Codes:
(Current adopted
Editions)**

Americans with Disabilities Act (ADA) & ADAAG
 Florida Accessibility Code
 Florida Building Code (FBC)
 Florida Electric Code (FEC)
 Florida Energy Code
 Florida Gas Code
 Florida Mechanical Code
 Florida Plumbing Code
 Florida Fire Prevention Code
 Florida Life Safety Code

Permitting:

The successful Respondent shall comply with all applicable codes and regulations of local, state and federal jurisdictional agencies. The following is the minimum requirement for environmental permitting, but does not limit the successful respondents compliance with the aforementioned codes and regulations:

1. Contact the Suwannee River Management District and obtain any and all required permits regarding storm water management;
2. Contact the Florida Department of Environmental Protection and comply with their requirements relating to, but may not be limited to:
 - a. NOI to use Generic Permit for Discharge of Storm Water from Small Construction Activities;
 - b. Storm Water Pollution Prevention Plan
 - c. Certification of Completion & Request for a Letter of Clearance to place public drinking water facilities into operation.
3. Contact the State Division of Historic Resources to obtain a site-specific review to determine if there are any cultural/historic resources present.
4. Upon approval and completion of final construction documents, submit to DC's Central Office the following, which will be submitted by DC to the State Fire Marshall and Building Code Administrative Services, the following:
 - 5 sets - 24" x 36" size drawings signed and sealed;
 - 1 set - 11" X 17" half sized drawings signed and sealed;
 - 1 set - Electronic Files in Portable Document Format (PDF); and
 - 1 set - Electronic Files in AutoCAD Drawing Format (dwg)
5. All costs of Plan Review, Permits and Inspections shall be borne by the successful Respondent.
6. The successful respondent will be billed directly for Plan Review, Permits and Inspections by Plan Review and Inspection agency under contract with the Department of Corrections.

Occupancy Classification:	To be determined by the successful respondent.
Building Type:	FBC Type IIB or IIIB
Floor Construction:	Concrete Slab on Grade
Exterior Walls:	8" CMU furred on the interior to receive closed cell rigid insulation and 5/8" thick mold resistant gypsum board.
Interior Partitions:	Steel Studs with 5/8" thick mold resistant gypsum board
Ceiling:	Minimum 1 layer 5/8" mold resistant gypsum board
Ceiling Height:	10 feet except corridors, toilets, storage may be 8 feet.
Roof Construction:	
Alternative A:	CMU load bearing walls with Pre-Engineered, Prefabricated Wood Trusses, Attic is vented.
Framing:	Pre-Engineered, Pre-fabricated Wood Trusses, min top chord slope 3:12, Hipped.
Sheathing:	5/8" 5 ply plywood, 4 x 8 feet with laminated reflective sheet, radiant barrier with APA exposure 1, or; 9/16", 4'x8' OSB panel with laminated reflective sheet with APA Exposure 1 rated; equal to LP Tech Shield Radiant Barrier Sheathing.
Roofing:	Min 1-1/2" Standing Seam Metal Panel with no through fasteners except at eaves and under ridge. 24 ga. Galvalume, (color to be selected by DOC) with minimum 20 year warranty on roof panel, color and installation. Provide Ice and water resistant underlayment.
Overhang:	2 feet minimum around entire building.
Fascia, Soffit and Trim:	24 gauge metal with a "Kynar 500 finish"; color as selected by DC or Painted fiber-cement board. Eave Drips shall be 24 gauge metal (minimum) color to match roof color.
Attic Insulation:	Minimum R-30, Cellulose or as required to achieve LEED certification.
Alternative B:	CMU load bearing walls with Pre-Engineered, Prefabricated Light Gauge Metal Trusses, Attic is non vented.
Framing:	Pre-Engineered, Pre-fabricated, Light Gauge Metal Trusses, min top chord slope 3:12, Hipped.
Sheathing:	1-1/2" 20 gauge, type B metal deck
Roof Insulation:	Minimum R-24 or as required to achieve LEED certification, closed cell rigid insulation placed directly on the metal deck.
Roofing Underlayment:	Provide ice and water resistant underlayment placed directly on the rigid insulation.
Roofing:	Minimum 1-1/2" Standing Seam Metal Panel with no through fasteners except at eaves and under ridge. 24 gauge Galvalume, (color to be selected by DOC) with minimum 20 year warranty on roof panel, color and installation.

Overhang: 2 feet minimum around entire building.

Fascia, Soffit and Trim: 24 gauge metal and have a "Kynar 500 finish", color to be selected by DOC.

Heat Resistance

Ratings:

Exterior Walls: R-19 minimum or as required to achieve LEED certification.

Roof/Ceiling: See Roofing Alternatives above:

Type of Insulation:

Walls: Closed Cell Rigid or blown-in Cellulose dependent upon type of construction.

Roof/Ceiling: See Roofing Alternatives above.

Doors:

Exterior: 16 gauge Hollow metal Frame and Door.

Interior: 16 gauge Hollow Metal Frames with Solid Core Wood Doors, Prefinished.

Hardware: Provide commercial grade mortised locksets. Match existing in institution and Tie into Grand Master Key System.

Windows:

Frames: 16 Gauge Hollow Metal Frames with Fixed Security Glazing.

Exterior Glazing: 1/2" nominal thickness, monolithic mar resistant polycarbonate, clear.

Interior Glazing: 9/16" glass clad polycarbonate or 1/4" tempered glass.

Finishes:

Appropriate for the type of facility.

- Provide welded sheet vinyl with integral sanitary base in all waiting, examination and treatment areas and corridors thereto.
- VCT may be used in all other areas except offices and mechanical areas.
- Carpet may be used in administrative offices.
- Ceramic tile floor and base shall be used in toilets.
- All interior walls shall be painted with an epoxy paint
- Exposed Concrete with an applied sealer may be used for floors in mechanical/electrical rooms.
- Exterior masonry walls shall receive a sealer and shall be painted with a system approved by DOC. Color to be selected by DOC.

HVAC System:

- HVAC:
- Split System Heat Pump, with strip heat as necessary to provide backup and emergency heating.
 - Provide ventilation to meet code requirements.
 - Ducts shall be located inside insulated building envelope.
 - Air Handler located inside mechanical room inside building accessible from exterior.
 - Condensing units shall be placed in an area easily accessible for maintenance and surrounded by a chain link fence and gate meeting the requirements of the institution.

Plumbing System:

- Comply with Florida Plumbing Code, Florida Accessibility Code and ADA as applicable.
- Provide piping and installation for waster water to nearest available sanitary

sewer.

- Provide piping and installation for potable water from nearest available source.

Electrical:

- General:
- Comply with Florida Electrical Code.
 - Successful Respondent will be provided a 480 volt, 3 Phase source located near the Radiotherapy Building.
 - The successful Respondent will be responsible for all costs of switchgear, cables, conduit, and trenching from this source to the proposed building.
 - The successful Respondent must provide any all transformers in the proposed building to achieve the desired usage voltage.
 - The successful Respondent shall design the electrical system for any required backup and redundancy.
 - Each treatment "station" shall be supplied with a dedicated circuit.

Communications:

The Successful Respondent will be responsible for providing voice and data communications to the proposed building, including all equipment, conduit, cables, wire, wiring blocks, backboards, etc. which shall include but not be limited to:

- Install a fiber cable run from the RMC Administration building to the new Dialysis building. The fiber cable shall be single mode, 6 pair (12 strand tight core).
- Install new 2 inch conduit from the Cancer Care building to the Dialysis building. The new run of fiber cable will need to be terminated in the computer room located in the RMC administration building and the new Dialysis building.
- Cable the entire new Dialysis building with CAT 5 (or better) in-wall cabling, with all in-wall cabling terminated back at the Dialysis building communications room in a patch panel. Every room in the Dialysis building should have 4 CAT 5 cable drops.
- Purchase a new network switch for network connectivity in the Dialysis building and the switch purchased should be capable of gigabyte transmission data speed.

The location and source shall be determined by a site survey and in coordination with DC personnel.

Accessibility:

- Comply with Florida Accessibility Code and ADA as applicable.
- Doors and access to building and all inmate treatment and waiting areas shall be of sufficient width to accommodate gurneys.

Special Requirements:

Provide 2 holding cells with 8" CMU walls, 9 gauge expanded metal above 5/8" gyp. Board ceiling and 14 gauge metal security door and frame. The door shall be provided with a "cuff" port, security flap and a 10" x 10" security glazed view window.

Site Requirements:

- Provide Fenced Construction Area, where designated on the included site plan. Fence shall be 12' high, meeting the requirements of the institution and shall, if required by the institution, include razor wire.
- Building shall be located no less than 50 feet from the inner perimeter fence of the institution nor less than 30 feet from any other building.
- Provide 6 feet wide concrete walks from the proposed building to the existing walks as directed.
- Provide 6 feet wide walk from existing walk to existing dialysis building, to provide complete operation of the existing facility until the proposed new facility is in operation.
- Sod all Disturbed Areas. Species of Sod to be selected by the institution.
- Respondent is responsible for design and construction of required earthwork,

grades, swales, erosion and sediment control.

- Safe Access shall be maintained to existing Buildings.
- The Successful Respondent shall be responsible for a site survey to determine existing conditions, topography, utilities above and below ground, storm water management facilities, etc.
- Provide a Fire Access Road to the proposed building as directed.

Submittals:

With Proposal:

- Floor Plan;
- Exterior Elevations;
- Typical Wall Sections;
- Schematic Site Plan;
- Description of Building and Systems to include Network diagram.
- Anticipated Construction Schedule from date of Award.
- Preliminary LEED Assessment and written plan describing actions and means of achieving the required certification.
- Identification of the Proposed Builder and a description of qualifications and experience.
- Identification of the Proposed Architect and all design consultants including qualifications and experience.
- Identification of LEED AP including descriptions of qualifications and experience.

After Award:

Design: 30% with complete with site survey, preliminary site design, preliminary building design, design analysis for all disciplines and systems and descriptions of all finishes and systems along with outline specifications.
LEED Assessment Checklist.

60% complete with door and finishes schedules and schematic design of all systems.
Updated design analysis.
Updated outline specifications.
Updated LEED Assessment Checklist.

90% Drawings, Specifications and Design Analysis complete except for final review comments.

100% Complete Drawings, Specifications and Design Analysis incorporating any and all review comments, ready for permitting.
Updated LEED Assessment Checklist.
Drawings for Permitting, See Permitting above.
Copies of Environmental Permits or letters of compliance from the agency.

**Construction
Submittals:**

- Submission of Product Data, Manufacturer's Recommendations and Shop Drawings.
- Copies of LEED Certification submittals.
- Record Drawings of building and site incorporating all changes made during construction. The Record Drawings shall be submitted as follows:
 - 1 set - 24" x 36" paper copy of all sheets;
 - 1 set - Electronic File of all Sheets in Portable Document Format (PDF);
 - 1 set - Electronic File of all Sheets in AutoCAD drawing Format (dwg).

LEED:

- General:
- The provider is required to design and construct a Building which shall comply

with minimum certification requirements of the Green Building Certification Institute's 3.0 LEED rating system.

- For purposes of this project the entrance to the proposed facility is the public entrance to the administration building through which all staff and visitors must pass through a security check.

Certification: The provider is required to comply with all prerequisites' and requirements necessary to achieve and obtain minimum LEED Certification.

- Statement of Work:
- USBGC certification: "Certified" is required.
 - Registration and payment of Registration Fees is the responsibility of the Successful Respondent.
 - Administration of the Project is the responsibility of the Successful Respondent
 - Validation of Credits will be by the USBGC.
 - Application, payment of all certification fees and all coordination with USBGC during certification process is the responsibility of the Successful Respondent.
 - USBGC interim review of design phase data is required.
 - The Certificate shall be obtained prior to acceptance of the facility.
 - LEED Credits which are outside the scope of this project are:
 1. Site Selection;
 2. Brownfield Redevelopment.

Mandatory Credits to be achieved:

1. Construction Activity Pollution Prevention
2. Light Pollution Reduction;
3. Water Use Reduction;
4. Fundamental Commissioning of Building Energy Systems
5. Optimize energy performance;
6. Fundamental Refrigerant Management
7. Enhanced Commissioning
8. Enhanced Refrigerant Management
9. Measurement and Verification
10. Storage and Collection of Recyclables (institution as state mandated recycling program);
11. Construction Waste Management 50%;
12. Indoor Air Quality;
13. Outdoor Air Delivery Monitoring;
14. Construction Indoor Air Quality Management Plan;
15. Low Emitting Materials;
16. Controllability of Lighting Systems;
17. Controllability of Systems for Thermal Comfort;
18. Thermal Comfort Design;
19. Thermal Comfort Verification

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SECTION 4 - PROCUREMENT RULES AND INFORMATION

4.1. Procurement Manager

Questions related to the procurement should be addressed to:

Ana Ploch, Procurement Manager
Bureau of Procurement and Supply
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
Telephone: (850) 922-4955
Fax: (850) 922-8897
E-mail: ploch.ana@mail.dc.state.fl.us

Pursuant to Section 287.057(26), Florida Statutes, Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the seventy-two (72) hour period following the agency posting the Notice of Agency Decision, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Procurement Manager or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

Questions will only be accepted if submitted in writing and received on or before the date and time specified in the Calendar of Events (Subsection 4.2). Responses will be posted on the Vendor Bid System (VBS) by the date referenced in the Calendar of Events (Subsection 4.2).

Any person requiring special accommodation in responding to this solicitation because of a disability should call the Bureau of Procurement and Supply at 850-488-6671 at least five (5) days prior to any pre-solicitation conference, solicitation opening or meeting. If you are hearing or speech impaired, please contact the Bureau of Procurement and Supply by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

Interested parties are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

4.2. Calendar of Events

Listed below are the important actions and dates/times by which the actions shall be taken or completed. If the Department finds it necessary to change any of these dates/times, it will be accomplished by an addendum. All listed times are local Eastern Standard Time in Tallahassee, Florida.

	<u>DATE</u>	<u>TIME</u>	<u>ACTION</u>
4.2.1	May 25, 2010		Release of ITN to Public, Posted on VBS
4.2.2	June 8, 2010	1:00 p.m.	Site Visit – Lake Butler
4.2.3	June 9, 2010	10:00 a.m.	Site Visit – Broward CI
4.2.4	June 10, 2010	10:30 a.m.	Respondents' Conference
4.2.5	June 16, 2010	5:00 p.m.	Last Day for Written Inquiries and Notice of Intent to Respond Received by the Department
4.2.6	June 28, 2010		Anticipated date that written responses to written inquiries to the ITN will be posted on the VBS.
4.2.7	July 13, 2010	2:00 p.m.	ITN Responses Due/ Initial Opening
4.2.8	July 27, 2010		Anticipated Date of Posting of Qualified Respondents
4.2.9	August 9, 2010		Anticipated Week of Negotiations
4.2.10	August 17, 2010		Anticipated Date of Release of Request for Best and Final Offer

	<u>DATE</u>	<u>TIME</u>	<u>ACTION</u>
4.2.11	August 27, 2010		Anticipated Date to Submit Response to Request for Best and Final Offer
4.2.12	September 14, 2010		Anticipated Posting of Agency Decision
4.2.13	October 15, 2010		Anticipated Contract Start Date for Design/Build Portion, with an anticipated operations start date of July 1, 2011.

4.3. Procurement Rules

4.3.1 Submission of Responses

Each response shall be prepared simply and economically, providing a straightforward, concise delineation of the Respondent's capabilities to satisfy the requirements of this ITN. Elaborate bindings, colored displays, and promotional material are not desired. Emphasis in each response shall be on completeness and clarity of content. In order to expedite the evaluation of responses, it is essential that Respondents follow the format and instructions contained in the Response Submission Requirements (Section 5) with particular emphasis on the Mandatory Responsiveness Requirements.

Responses are due at the time and date specified in the Calendar of Events (Subsection 4.2) at the Department of Corrections, Bureau of Procurement and Supply, 2601 Blair Stone Road, 4th floor, Tallahassee, Florida 32399, and shall be submitted to the attention of the Procurement Manager at the address listed in Subsection 4.1. Responses received late will not be considered and no modification by the Respondent of submitted responses will be allowed, unless the Department has made a request for additional information. No Department staff will be held responsible for the inadvertent opening of a response not properly sealed, addressed or identified.

4.3.2 Response Opening

Responses will be publicly opened at the time and date specified in the Calendar of Events (Subsection 4.2). The name of all Respondents submitting responses and the initial costs proposed shall be made available to interested parties upon written request to the Procurement Manager listed in Subsection 4.1.

4.3.3 Costs of Preparing Response

The Department is not liable for any costs incurred by a Respondent in responding to this ITN, including those for oral presentations, if applicable.

4.3.4 Disposal of Responses

All responses become the property of the State of Florida and will be a matter of public record subject to the provisions of Chapter 119, Florida Statutes. Selection or rejection of the response will not affect this right. Should the Department reject all responses and issue a re-bid, information submitted in response to this ITN will become a matter of public record as indicated in Section 119.07 (1), Florida Statutes.

4.3.5 Right to Withdraw Invitation to Negotiate

The Department reserves the right to withdraw this ITN at any time and by doing so assumes no liability to any Respondent.

4.3.6 Mandatory Responsiveness Requirements:

The Department shall reject any and all responses that do not meet mandatory responsiveness requirements as defined below.

Mandatory Responsiveness Requirements are those terms, conditions or requirements that shall be met by the Respondent to be responsive to this ITN. The responses must include all required plans for services as required in the ITN for review by the Department. These responsiveness requirements are mandatory. Failure to meet these responsiveness requirements will cause rejection of a response. Any response rejected for failure to meet mandatory responsiveness requirements will not be further evaluated.

4.3.7 Right to Reject Response Submissions and Waiver of Minor Irregularities

The Department reserves the right to reject any and all Statement of Qualifications and/or Technical Response/Service Delivery Narrative or to waive minor irregularities when to do so would be in the best interest of the State of Florida. Minor irregularities are defined as a variation from the Invitation to Negotiate terms and conditions which does not affect the price proposed, or give the Respondent an advantage or benefit not enjoyed by other Respondents, or does not adversely impact the interests of the Department. At its option, the Department may correct minor irregularities but is under no obligation to do so whatsoever.

4.3.8 Site Visits and Respondents' Conference

4.3.8.1 Site Visit:

All interested Respondents, before submitting their response, may visit the following site and become familiar with conditions that may in any manner affect the work to be done. The Department has set specific dates for the site visits and will not allow visits for individual Respondents or visits at any other time. Interested parties must call the Hospital Administrator at least two (2) business days prior to start date of the site visits listed in the Calendar of Events and furnish them with the following information on all attendees, including the attendee's Full Name, Social Security Number, Date of Birth and Driver's License Number.

Site visits shall occur according to the following schedule and interested parties shall meet at the main gate for admittance to the facility. All Department security procedures shall apply.

DIALYSIS SERVICES SITE VISIT SCHEDULE				
Region	Institution	Address	Date	Time
II	Reception and Medical Center	7765 South CR 231 Lake Butler, FL 32054 Contact: Hospital Administrator Telephone: (386) 496-6120	June 8, 2010	1:00 pm
IV	Broward CI	20421 Sheridan Street Ft. Lauderdale, Florida 33332 Contact:: Health Service Administration Telephone: (954) 252-6331	June 9, 2010	10:00 am

Persons present as attendees must be the same individuals for whom information was provided and must be approved by Department/Institution staff at each site. For security reasons, admittance of any Respondents not previously approved is at the sole discretion of the Institution and Respondents who did not seek prior approval may be denied access. Attendees must present photo identification at the site. Attendance at the site visits is highly recommended.

The Department will accept verbal questions during the site visits and will make a reasonable effort to provide answers at that time. Impromptu questions will be permitted and spontaneous answers

provided; however, parties should clearly understand that the Department will issue a written response ONLY to those questions subsequently submitted in writing in accordance with Section 4.3.9.1. This written response will be provided to all prospective Respondents as an addendum to the ITN and shall be considered the Department's official answer or position as to the question or issue posed. **Verbal answers and discussions shall not be binding upon the Department.**

4.3.8.2 Respondents' Conference:

There will be a Respondents' conference at the Department of Corrections, Bureau of Procurement and Supply, 2601 Blair Stone Road, Tallahassee, Florida on the date and at the time specified in the Calendar of Events (Section 4.2). The purpose of the conference is to discuss the contents of this ITN and Respondents' verbal questions and recommended changes. **Attendance at the Respondents' conference is not mandatory, but is highly recommended.**

The Department will accept verbal questions during the conference and will make a reasonable effort to provide answers at that time. Impromptu questions will be permitted and spontaneous answers provided; however, parties should clearly understand that the Department will issue a written response ONLY to those questions subsequently submitted in writing in accordance with Section 4.3.9.1. This written response will be provided to all prospective Respondents/Contractors via posting on the VBS as an addendum to the ITN and shall be considered the Department's official answer or position as to the question or issue posed. **Verbal answers and discussions shall not be binding upon the Department.**

4.3.9 Inquiries

4.3.9.1 Any inquiries from Respondents concerning this ITN shall be **submitted in writing**, identifying the submitter, to the Procurement Manager identified in Subsection 4.1 of this ITN and must be received no later than the date and time specified in the Calendar of Events (Subsection 4.2). **E-mail inquiries are preferred, and the Respondent may follow up with a hard copy by mail or facsimile.** However, it is the responsibility of the Respondent to confirm receipt of e-mailed or faxed inquiries.

4.3.9.2 Interested parties shall examine this ITN to determine if the Department's requirements are clearly stated. If there are any requirements that restrict competition, Respondents may request, in writing, to the Department that the requirements be changed. The Respondent who requests changes to the Department's requirements must identify and describe their difficulty in meeting the Department's requirements, must provide detailed justification for a change, and must recommend changes to the requirements. Requests for changes to this ITN must be received by the Department no later than the date shown for written inquiries questions in the Calendar of Events (Subsection 4.2). A Respondent's failure to request changes by the date described above shall be considered to constitute Respondent's acceptance of Department's requirements. The Department shall determine what changes to this ITN shall be acceptable to the Department. If required, the Department shall issue an addendum reflecting the acceptable changes to this ITN, which shall be posted on VBS, in order that all Respondents shall be given the opportunity of proposing to the same requirements.

4.3.9.4 Failure to file a protest of the ITN specifications within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

4.3.9.5. A formal written protest must be accompanied by a bond payable to the Department in an amount equal to one percent (1%) of the Department's estimate of the total value of the proposed Contract. The amount of the bond will be pursuant to Section 287.042(2)(c), F.S.

4.3.10 Letter of Intent to Respond

All Respondents planning to submit a response are encouraged to submit a letter stating this intent by the date and time specified in the Calendar of Events (Subsection 4.2). This letter may be e-mailed, mailed, faxed or hand delivered.

4.3.11 Addenda

The Department will post all addenda and materials relative to this procurement on the Florida Vendor Bid System at www.myflorida.com under the posted response number (click on "Business", then "Doing Business with the State", under "Everything for Vendors and Customers", click on "Vendor Bid System (VBS)", and "Search Advertisements"). **Interested parties are responsible for monitoring this site for new or changing information relative to this procurement.**

An Addendum Acknowledgment Form will be included with each addendum and shall be signed by an authorized company representative, dated, and returned with the response, as instructed in Section 5.7, Addendum Acknowledgment Form.

4.3.12 Cost/Price Discussions

Any discussion by a Respondent with any employee or authorized representative of the Department involving cost or price information, occurring prior to posting of the Notice of Agency Decision, will result in rejection of said Respondent's response.

4.3.13 Verbal Instructions

No negotiations, decisions, or actions shall be initiated or executed by the Respondent as a result of any discussions with any Department employee. Only those communications which are in writing from the Department's staff identified in Subsection 4.1 of this ITN shall be considered a duly authorized expression on behalf of the Department. Only communications from the Respondent's representative which are in writing and signed will be recognized by the Department as duly authorized expressions on behalf of the Respondent.

4.3.14 No Prior Involvement and Conflicts of Interest

The Respondent shall not compensate in any manner, directly or indirectly, any officer, agent or employee of the Department for any act or service which he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Respondent. No officer, agent, or employee of the Department shall have any interest, directly or indirectly, in any Contract or purchase made, or authorized to be made, by anyone for, or on behalf of, the Department.

The Respondent shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under this ITN.

4.3.15 State Licensing Requirements

All entities defined under Chapters 607, 617 or 620, Florida Statutes, seeking to do business with the Department shall be on file and in good standing with the State of Florida's Department of State.

4.3.16 MyFloridaMarketPlace Vendor Registration

All vendors that have not re-registered with the State of Florida since March 31, 2003, shall go to <http://vendor.myfloridamarketplace.com/> to complete on-line registration, or call 1-866-352-3776 for assisted registration.

4.3.17 Public Entity Crimes

A person or affiliate who has been placed on the Convicted Contractor List following a conviction for a public entity crime may not submit a response to provide any goods or services to a public entity, may not submit a bid or response to a public entity for the construction or repair of a public building or public work, may not submit bids or responses for leases of real property to a public entity, may not be awarded or perform work as a Respondent, supplier, subcontractor, or consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two (2) for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

4.3.18 Discriminatory Vendors List

An entity or affiliate who has been placed on the Discriminatory Vendors List may not submit a bid or response to provide goods or services to a public entity, may not be awarded a Contract or perform work as a Contractor, supplier, subcontractor or consultant under Contract with any public entity and may not transact business with any public entity.

4.3.19 Unauthorized Employment of Alien Workers

The Department does not intend to award publicly funded Contracts to those entities or affiliates who knowingly employ unauthorized alien workers, constituting a violation of the employment provisions as determined pursuant to Section 274A of the Immigration and Nationality Act.

4.3.20 Confidential, Proprietary, or Trade Secret Material

The Department takes its public records responsibilities as provided under chapter 119, Florida Statutes and Article I, Section 24 of the Florida Constitution, very seriously. If the Proposer considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, trade secret or otherwise not subject to disclosure pursuant to chapter 119, Florida Statutes, the Florida Constitution or other authority, the Proposer must also simultaneously provide the Department with a separate redacted copy of its proposal and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Department's solicitation name, number, and the name of the proposer on the cover, and shall be clearly titled "Redacted Copy." The redacted copy shall be provided to the Department at the same time the Proposer submits its proposal to the solicitation and must only exclude or redact those exact portions which are claimed confidential, proprietary, or trade secret.

The Proposer shall be responsible for defending its determination that the redacted portions of its proposal are confidential, trade secret or otherwise not subject to disclosure. Further, the Proposer shall protect, defend, and indemnify the Department for any and all claims arising from or relating to Proposer's determination that the redacted portions of its response are confidential, proprietary, trade secret or otherwise not subject to disclosure.

If the Proposer fails to submit a Redacted Copy with its response, the Department is authorized to produce the entire documents, data or records submitted by the Proposer in answer to a public records request for these records.

4.3.21 Disclosure of Proposal Submittal Contents

All documentation produced as part of this solicitation shall become the exclusive property of the Department and may not be removed by the Proposer or its agents. All replies shall become the property of the Department and shall not be returned to the Proposer. The Department shall have the right to use any or all ideas or adaptations of the ideas presented in any reply. Selection or rejection of a proposal shall not affect this right.

4.4 Posting of Notice of Agency Decision

In regard to any competitive solicitation, the Department shall post a public notice of agency action when the Department has made a decision to award a contract, reject all bids or responses, or to cancel or withdraw the solicitation.

The Notice of Agency Decision will be posted on or about the date shown in the Calendar of Events (Subsection 4.2) and will remain posted for a period of seventy-two (72) hours (Saturdays, Sundays and State holidays shall be excluded in the computation of the seventy-two (72) hour time period). Posting will be made available on the Florida Vendor Bid System at www.myflorida.com (follow instructions listed in Subsection 4.3.11).

- 4.4.1** Any Respondent who desires to protest the Notice of Agency Decision must file the following documents with the Agency Clerk in the Department's Office of General Counsel and provide copies to the Procurement Manager listed in Subsection 4.1 of this ITN.
 - 4.4.1.1** A written notice of intent to protest within seventy-two (72) hours (Saturdays, Sundays and State holidays shall be excluded in the computation of the seventy-two (72) hour time period) after posting of the Notice of Agency Decision.
 - 4.4.1.2** A formal written protest by petition within ten (10) calendar days after the date on which the notice of protest is filed.
 - 4.4.1.3** A protest bond (see Subsection 4.4.3) within ten (10) calendar days after the date on which the notice of protest is filed.
- 4.4.2** Failure to file a protest within the time prescribed in Chapter 120.57(3), Florida Statutes or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.
- 4.4.3** A formal written protest must be accompanied by a bond payable to the Department in an amount equal to one percent (1%) of the estimated total value of the proposed Contract. The amount of the bond will be provided by the Department's Office of General Counsel/Contracts Section and can be obtained by contacting the appropriate staff at 850-488-2328. The form of the bond shall be a bond, cashier's check, or money order.

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SECTION 5 – RESPONSE SUBMISSION REQUIREMENTS

The Respondent shall supply one (1) original signed and five (5) copies of the Design/Build Response, one (1) original signed and five (5) copies of the Facility Operation Response and one (1) original and two (2) copies of the Initial Treatment Price Response, **clearly marked “ITN #09-DC-8157 – Design/Build and Operation of a Dialysis Treatment Center.” The Design/Build Response, the Facility Operation Response, and the Treatment Price Response shall be in separately sealed packages clearly identified and marked as “ITN #09-DC-8157 Design/Build Response for Design/Build and Operation of a Dialysis Treatment Center” or “ITN #09-DC-8157 Facility Operation Response for Design/Build and Operation of a Dialysis Treatment Center” or “ITN #09-DC-8157 Initial Treatment Price for Design/Build and Operation of a Dialysis Treatment Center” respectively.** Inclusion of any costs or pricing data in the Design/Build Response or the Facility Operation Response may result in rejection of all response submissions. The following responsiveness requirements will be broken down by the submission responses. Sections 5.1 – 5.9 will be for the Facility Operation Response and Sections 5.10 – 5.14 will be for the Design/Build Response.

FACILITY OPERATION RESPONSE

5.1 Tab 1 Mandatory Responsiveness Requirements/Fatal Criteria

The following terms, conditions, or requirements must be met by the Respondent to be considered responsive to this ITN. **These responsiveness requirements are mandatory. Failure to meet these responsiveness requirements will cause rejection of a response.** Note: Copies of rejected responses will be retained in the ITN file.

- 5.1.1 It is **mandatory** that the response package is received by the Department by the date and time specified in Section 4.2., Calendar of Events.
- 5.1.2 It is **mandatory** that the Respondent sign, have certified by a notary public, and return, under **Tab 1**, the “Certification Attestation Page for Mandatory Statements” (**ATTACHMENT 1**).
- 5.1.3 Additionally, the Respondent shall **complete, sign and return**, under **Tab 1**, the Florida Department of Corrections, ITN Acknowledgement Form, which is the front cover of this ITN document.
- 5.1.4 It is **mandatory** that the Respondent submit an initial dialysis treatment price that provides a percentage of medicare rate. Please see Section 5.9 of this solicitation for further information.

Respondents not meeting or not contracting with a firm meeting the definition of a design-build firm shall be considered non-responsive and ineligible for consideration.

5.2 Tab 2 Statement of Qualifications – Facility Operation Response

Please provide the following information for the Respondent and insert under **Tab 2** of your Facility Operation Response. The objective of the proposal is to demonstrate the proposing firm’s ability to successfully operate the facility in question.

5.2.1 Respondent’s Business/Corporate Entity Details

Please provide the following corporate entity details for the Respondent and each subcontractor (if subcontracting is indicated).

- 5.2.1.1 Date established.
- 5.2.1.2 Ownership (public company, partnership, subsidiary, etc.).
- 5.2.1.3 Primary type of business and number of years conducting business.
- 5.2.1.4 Respondent’s federal tax identification number or social security number, as applicable to the legal entity that will be performing as Primary Contractor under any resultant Contract.
- 5.2.1.5 Total number of employees.

- 5.2.1.6 Information indicating that the Respondent is a corporation or other legal entity, if applicable.
- 5.2.1.7 Information indicating whether the Respondent intends to provide 100% of services directly or intends to utilize subcontractors and if so, provide identification of all subcontractors performing 30% or more of direct service delivery (non-support based services). Include a statement indicating the percentage of work to be completed by the Respondent and each subcontractor as measured by percentage of the total Contract.
- 5.2.1.8 A statement from any proposed subcontractor acknowledging acceptance of and intent to be bound by the Contract terms to be included in the Department's Contract should the Respondent be awarded a Contract resulting from this ITN. The statement shall bear an original signature from a person authorized to legally bind the subcontractor.
- 5.2.1.9 List of names known to the Respondent/subcontractor of any Department employees having a direct or indirect financial interest in the Respondent's/subcontractor's company. An indirect financial interest means a financial interest in the Respondent's/subcontractor's company by a member of a Department employee's immediate family.
- 5.2.1.10 Proof that the Respondent is registered to do business in Florida, evidenced by Articles of Incorporation or Fictitious Name Registration and a copy of the most recent Certification of Good Standing. If not registered, response shall provide evidence of their application for registration. In addition, the Respondent's corporate charter number or fictitious name file number, if applicable, must be provided as well as assurances that, if necessary, any subcontractors proposed will also be licensed to do business in Florida.
- 5.2.1.11 A current copy of all required state and federal licenses, permits and registrations, including, but not limited to the face-sheet of the Contractor's current insurance policy coverage.

5.2.2 Respondents' Business/Corporate Experience

The following details of the Respondent's qualifications and experience to perform the services sought through this Invitation to Negotiate shall be provided in narrative form and in sufficient detail so that the Department is able to judge its complexity and relevance. Specifically:

- 5.2.2.1 provide a narrative description of Respondent's past experience delivering Dialysis Treatment Services that meets the minimum qualifications set forth by the Invitation to Negotiate. Clearly identify number of years providing services and dates of service delivery.
- 5.2.2.2 provide the Respondent's business plan (the organization's current status and plans for several years into the future) and administrative structure. Describe the Respondent's organizational structure, depicting clear lines of authority.
- 5.2.2.3 provide a list of all Contracts current and/or past (within five (5) years) that fully demonstrate/illustrate that the Respondent has the experience and ability to completely and timely perform all services contemplated by this ITN. If voluminous, no more than 10-15 Contracts specifically related to the statement of services sought in this ITN shall be listed.
- 5.2.2.4 provide a narrative summary of Contract performance in the above-identified Contracts, including any major adverse findings.
- 5.2.2.5 provide a summary of any exemplary or qualitative findings, recommendations, or other validations, demonstrating operational experience. (i.e., specialized accreditations, grant awards, etc.).
- 5.2.2.6 provide a list of all Contracts Respondent has provided services under that were terminated prior to original expiration date or for which Respondent requested termination, or reached mutual agreement on termination prior to the original Contracted expiration date, and all reasons for such actions. If no Contracts have been so terminated, Respondent shall provide a statement to that effect. Provide

complete, detailed information about the circumstances leading to termination as well as the name and contact information for the other party to each terminated Contract.

5.2.2.7 The Respondent shall provide copies of any and all documents regarding complaints filed, investigations made, warning letters or inspection reports issued, or any disciplinary action imposed by any federal or state oversight agencies within the past five (5) years. Respondent shall also identify all entities of or related to the Respondent (including parent company and subsidiaries of the parent company, divisions or subdivisions of parent company, or of Respondent) that have ever been convicted of fraud or of deceit or unlawful business dealings whether related to the services contemplated by this ITN or not, or entered into any type of settlement agreement concerning charges of fraud or any other type of dealings contrary to federal, state, or other regulatory agency regulations. Respondent shall identify the amount of any payments made as part of any settlement agreement, consent order or conviction.

NOTE: The Department reserves the right to use all information provided in determining Respondent qualifications, as well as any other information the Department may obtain through any means that bears on the issue of responsibility.

5.2.3 Organizational Charts

The Respondent shall provide an organizational chart outlining the hierarchy of Contractor's staff for the Contract proposed under this ITN.

5.2.4 Key Staffing

The purpose of this subsection is to provide the Department with a basis for determining the Respondent's understanding of the qualifications of personnel required for administrative oversight and/or management of a contract of this size and scope.

5.2.4.1 Key Management Personnel and Qualifications

The Respondent shall provide biographies or curriculum vitae and qualifications of the following individuals to be assigned to the Contract. Such information shall include employment history for all relevant and related experience and all education and degrees (**including specific dates, names of employers, and educational institutions**). Licenses and credentials, as applicable, shall be provided with resumes, and experience and training must be indicated and must support that the respective individual meets the specifications listed below:

a. Chief Executive Officer (or equivalent title) - The Chief Executive Officer (CEO) is the highest ranking officer in the Respondent's company or organization. The CEO shall have a minimum of two (2) years experience as a CEO of a corporation regularly engaged in dialysis services or a medically similar service.

b. Administrative Project Manager (or equivalent title) - The Administrative Project Manager is the individual who will have corporate responsibility for administration of the Contract. This individual shall have a minimum of two (2) years experience within the last five (5) years at the management level providing direct administrative oversight of dialysis service facilities or a medically similar service.

c. Chief Medical Officer (or equivalent title) - The Chief Medical Officer (CMO) is the highest ranking medical physician in the Respondent's company or organization. The CMO shall have a minimum of two (2) years experience as a physician of a corporation regularly engaged in dialysis services.

d. On-Site Contract Personnel – All On-Site Contract employees must be certified by a national accreditation organization in Dialysis or must obtain national certification within one year of employment. The On-Site supervisor must be certified at the start of service delivery.

5.3 Tab 3 Technical Response/Service Delivery Narrative

The Respondent shall provide a Technical Response/Service Delivery Narrative identifying how Respondent will meet the Statement of Purpose and Statement of Services Sought, respectively, of this ITN. The Technical Response/Service Delivery Narrative shall be prepared in such a manner that it will be understandable to individuals on a programmatic and management level. The response shall fully describe the Respondent's proposed methodology for meeting the Department's requirements for service delivery outlined in Section 2 and Section 3, and specifically addressing any value added services as described in Section 3.16. The response shall contain sufficient detail addressing all elements of the required services, and shall be prepared in such a manner that will clearly indicate the Respondent's understanding of the services sought by the Department as set forth in the ITN.

- 5.3.1 The Respondent shall provide a **plan** to partner with the Radiotherapy Center at RMC to ensure radiological services are provided to the inmate as necessary.
- 5.3.2 The Respondent shall provide a **plan** to ensure a vascular access (internal fistula, graft or external shunt or catheter) program is in place and shall provide services to limit and/or prevent failures whenever possible. This program shall be provided at no additional cost to the Department.

5.4 Tab 4 References

5.4.1 Business/Corporate Experience References

The Respondent shall furnish a minimum of three (3) business/corporate references with its response package submission, utilizing the form provided as **ATTACHMENT 2** to support Respondent's stated business/corporate experience as outlined in this ITN. In order to qualify as relevant current experience, services described by corporate references shall be ongoing or have been completed within the sixty (60) months preceding the issue date of this ITN.

The references shall be completed and signed by the individual offering the reference, and certified by a notary public. Reference(s) shall identify the type of services provided by the Respondent, (which should be directly relevant to the services outlined in this ITN), dates the Respondent provided such services, the firm/agency name of the entity for which the Respondent provided services, and the reference signer's **current** telephone number and address. Reference(s) shall include statements supporting that Respondent has performed services similar in magnitude and scope to those requested in the ITN. References that do not support relevant service delivery experience shall be rejected. **Employees, other than a Contract Manager, of the Department may not be used and will not be accepted as corporate references.** The Department reserves the right to contact the above-provided references as well as reference sources not listed in the bid.

5.4.2 Key Contract Staff References

The Respondent shall provide, for the individuals identified for the positions in subsection 5.2.4.1 above, a minimum of two (2) and a maximum of four (4) references utilizing the form provided as **ATTACHMENT 3** of this ITN. Reference(s) shall be completed and signed by the individual offering the reference, and certified by a notary public. Reference(s) shall demonstrate, at a minimum, the required timeframe of work experience and shall include statements supporting the ability of the individual to perform on the Contract resulting from this ITN. Employees of the Department may not be used and will not be accepted as references. Further, references will not be accepted from persons currently or formerly supervised by the person for whom the reference is being submitted or related to that person in any way. References shall be from objective sources. The Department reserves the right to contact references not listed in the response.

5.5 Tab 5 Contact for Contract Administration

The Respondent shall complete **ATTACHMENT 4** of this ITN and insert it under **Tab 5** of the Response.

5.6 Tab 6 Certification of Drug Free Workplace Program

The State supports and encourages initiatives to keep the workplaces of Florida's suppliers and contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, preference shall be given to a response received from a Respondent that certifies it has implemented a Drug-Free Workforce Program.

If applicable, the Respondent shall complete and sign **ATTACHMENT 5** of this ITN (Certification of Drug Free Workplace Program), and insert it under **Tab 6** of the Response, if appropriate.

5.7 Tab 7 Addendum Acknowledgment Form

The Respondent shall complete and insert each Addendum Acknowledgment Form received (example shown as **ATTACHMENT 6** of this ITN) under **Tab 7** of their response, if appropriate.

5.8 Tab 8 Minority/Service Disabled Veteran Business Enterprise Certification

If applicable, the Respondent shall provide a current and valid copy of their certification as a minority or service-disabled veteran business enterprise issued by the Office of Supplier Diversity, (formerly called the Commission on Minority Economic Business and Development), and insert it under **Tab 8** of the response.

5.9 Initial Price Response

It is **mandatory** that the Initial Price Response is also received by the Department by the date and time specified in Section 4.2., Calendar of Events. The Initial Price Response may be submitted within the same box or container that the Facility Operation Response and the Design/Build Response (including all copies) as long as it is in a separately sealed envelope. As previously indicated, no cost information may be reflected in the Facility Operation or the Design/Build Responses.

Respondents shall provide a single rate, per treatment procedure, per service delivery mode not to exceed **100%** of the current Florida Medicare global/bundled rate. The Contract payment will be made on a monthly basis in a fee-for-service manner. The Department reserves the right to re-negotiate rates based on significant increases in the number of inmates serviced by the Contract.

DESIGN/BUILD RESPONSE

5.10 Tab 1 Statement of Qualifications –Design/Build Response

Please provide the following information for the Respondent and insert under **Tab 1** of the design/build response. The objective of the proposal is to demonstrate the proposing firm's ability to successfully design and build the facility in question.

5.10.1 Respondent's Business/Corporate Entity Details

Please provide the following corporate entity details for the Respondent and each subcontractor (if subcontracting is indicated).

5.10.1.1 Date established.

5.10.1.2 Ownership (public company, partnership, subsidiary, etc.).

5.10.1.3 Primary type of business and number of years conducting business.

- 5.10.1.4 Respondent's federal tax identification number or social security number, as applicable to the legal entity that will be performing as Primary Contractor under any resultant Contract.
- 5.10.1.5 Total number of employees.
- 5.10.1.6 Information indicating that the Respondent is a corporation or other legal entity, if applicable.
- 5.10.1.7 Information indicating whether the Respondent intends to provide 100% of services directly or intends to utilize subcontractors and if so, provide identification of all subcontractors performing 30% or more of direct service delivery (non-support based services). Include a statement indicating the percentage of work to be completed by the Respondent and each subcontractor as measured by percentage of the total Contract.
- 5.10.1.8 A statement from any proposed subcontractor acknowledging acceptance of and intent to be bound by the Contract terms to be included in the Department's Contract should the Respondent be awarded a Contract resulting from this ITN. The statement shall bear an original signature from a person authorized to legally bind the subcontractor.
- 5.10.1.9 List of names known to the Respondent/subcontractor of any Department employees having a direct or indirect financial interest in the Respondent's/subcontractor's company. An indirect financial interest means a financial interest in the Respondent's/subcontractor's company by a member of a Department employee's immediate family.
- 5.10.1.10 Proof that the Respondent is registered to do business in Florida, evidenced by Articles of Incorporation or Fictitious Name Registration and a copy of the most recent Certification of Good Standing. If not registered, response shall provide evidence of their application for registration. In addition, the Respondent's corporate charter number or fictitious name file number, if applicable, must be provided as well as assurances that, if necessary, any subcontractors proposed will also be licensed to do business in Florida.
- 5.10.1.11 A current copy of all required state and federal licenses, permits and registrations, including, but not limited to the face-sheet of the Contractor's current insurance policy coverage.

5.10.2 Respondents' Business/Corporate Experience

The following details of the Respondent's qualifications and experience to perform the services sought through this Invitation to Negotiate shall be provided in narrative form and in sufficient detail so that the Department is able to judge its complexity and relevance. Specifically:

- 5.10.2.1 Pursuant to Executive order 07-126 and Section 255.252(3), F.S., the Department requires the proposed facility be designed and constructed in accordance with green building standards where applicable. The Respondent should demonstrate knowledge and experience with the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system, or a nationally recognized, high-performance green building rating system as approved by the Department. Respondents with project team members accredited in the LEED program are preferred. The Successful Respondent shall obtain USGBC certification level "Certified" as described in the Section 3.17. Respondent should list any LEED building experience. The Respondents must supply a checklist indicating which LEED (or equivalent) points they will be looking to obtain in the Design/Build process. This checklist will be used in the evaluation process and will be binding for the successful Respondent's Contract. For purposes of this requirement, 'facility' is defined as a place where Dialysis is performed on a routine basis but at least 3 days per week.
- 5.10.2.2 Provide information on experience on completed construction projects giving the following information on each project reported. This list should include all Contracts current and/or past (within five (5) years) that fully demonstrate/illustrate that the Respondent has the experience and ability to completely and timely perform all services contemplated by this ITN. If voluminous, no more than 10-15 Contracts specifically related to the statement of services sought in this ITN shall be listed. Included information:

- a. Project Name and Location.
- b. Project Description.
- c. Construction Cost.
- d. Design Start and Completion Dates.
- e. Construction Start and Completion Dates.
- f. Actual Work performed and percentage of total work.
- g. Owner's name, address, telephone number and person to contact.
- h. Architect-Engineer's name, address, telephone number and person to contact.

5.10.2.3 Provide for one or more of the above-completed construction projects (maximum of three) the following information:

- a. Discuss any original or unique thinking or judgment exercised by you staff during the project.
- b. Details on addenda issued during bidding and why they were needed.
- c. Details on change orders issued during construction; why they were needed and how they affected the construction process.
- d. Total construction award amount compared to the final pre-bid estimate.
- e. Completed construction cost compared to the initial construction award amount and to the construction estimate when design was initiated.
- f. Initial schedule, in months, for design and for construction compared to the actual time spent.
- g. Extent of Respondent's involvement in project problems during both design and construction, including any design or construction omissions, errors, other deficiencies or changed conditions.
- h. Discuss your relationships with the Owner, the Architect-Engineer, and the construction contractors (prime or sub).
- i. Describe any post-construction problems in start-up, operation or maintenance.

5.10.2.4 Provide that Respondent must be, or contract with, a Design/Build firm appropriately licensed in the State of Florida with a qualifying agent employed full time by the licensed firm with proof of licensure required with submittal. A design-build firm is defined by Section 287.055.2, Florida Statutes, as follows: A "design-build firm" means a partnership, corporation, or other legal entity that: is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or is certified under Section 471.023, Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219, Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319, Florida Statutes, to practice or to offer to practice landscape architecture.

5.10.2.5 Provide a summary of the experience of the Design/Build Firm with regards to the design, permitting, construction of Dialysis Treatment Centers or similar facilities.

5.10.2.6 Provide the Respondent's business plan (the organization's current status and plans for several years into the future) and administrative structure. Describe the Respondent's organizational structure, depicting clear lines of authority.

5.10.2.7 Provide a narrative summary of Contract performance in the above-identified Contracts, including any major adverse findings.

5.10.2.8 Provide a summary of any exemplary or qualitative findings, recommendations, or other validations, demonstrating operational experience. (i.e., specialized accreditations, grant awards, etc.).

5.10.2.9 Provide a list of all Contracts Respondent has provided services under that were terminated prior to original expiration date or for which Respondent requested termination, or reached mutual agreement on termination prior to the original Contracted expiration date, and all reasons for such actions. If no Contracts have been so terminated, Respondent shall provide a statement to that effect. Provide

complete, detailed information about the circumstances leading to termination as well as the name and contact information for the other party to each terminated Contract.

- 5.10.2.10** The Respondent shall provide copies of any and all documents regarding complaints filed, investigations made, warning letters or inspection reports issued, or any disciplinary action imposed by any federal or state oversight agencies within the past five (5) years. Respondent shall also identify all entities of or related to the Respondent (including parent company and subsidiaries of the parent company, divisions or subdivisions of parent company, or of Respondent) that have ever been convicted of fraud or of deceit or unlawful business dealings whether related to the services contemplated by this ITN or not, or entered into any type of settlement agreement concerning charges of fraud or any other type of dealings contrary to federal, state, or other regulatory agency regulations. Respondent shall identify the amount of any payments made as part of any settlement agreement, consent order or conviction.

NOTE: The Department reserves the right to use all information provided in determining Respondent qualifications, as well as any other information the Department may obtain through any means that bears on the issue of responsibility.

5.10.3 Organizational Charts

The Respondent will include information on the organization of the design/build team. If proposal is a joint venture, supply requested information on each involved firm. Minimum information shall include:

- 5.10.3.1.** Firm: Name, Address, Telephone, Contact Person.
- 5.10.3.2.** Types of Services Provided by Firm:
 - a. Construction Management.
 - b. Project Management.
 - c. General Construction Contracting.
 - d. Design/Build.
 - e. Other, Explain.
- 5.10.3.3.** Legal Form: Individual, Partnership, Corporation, Joint Venture.
- 5.10.3.4.** Date incorporated under present firm.
- 5.10.3.5.** Former names, locations and dates (if any).
- 5.10.3.6.** Names, titles and addresses of firm owner, partners or officers.

5.10.4 Key Staffing

The purpose of this subsection is to provide the Department with a basis for determining the Respondent's understanding of the qualifications of personnel required for administrative oversight and/or management of a Contract of this size and scope. The Project Manager, Project Engineer and Construction Manager may be different individuals, but cannot serve in more than two positions. The Project Engineer must be a professional engineer registered in the State of Florida; proof of registration is required with submittal.

5.10.4.1 Key Management Personnel and Qualifications

The Respondent shall provide biographies or curriculum vitae and qualifications of the following individuals to be assigned to the Contract. Such information shall include employment history for all relevant and related experience and all education and degrees (**including specific dates, names of employers, and educational institutions**). Licenses and credentials, as applicable, shall be provided with resumes, and experience and training must be indicated and must support that the respective individual meets the specifications listed below:

- a. **Chief Executive Officer (or equivalent title)** - The Chief Executive Officer (CEO) is the highest ranking officer in the Contractor's company or organization. The CEO shall have a minimum of two (2) years experience as a CEO of a corporation regularly engaged in construction projects.
- b. **Administrative Project Manager (or equivalent title)** - The Administrative Project Manager is the individual who will have corporate responsibility for administration of the Contract. This individual shall have a minimum of two (2) years experience within the last five (5) years at the management level providing direct administrative oversight similar construction projects.
- c. **Construction Project Manager (or equivalent title)** - The Construction Project Manager is the individual who will have corporate responsibility for the construction of the facility as it relates to the parameters of the Contract. This individual shall have a minimum of five (5) years experience within the last seven (7) years at the management level providing direct oversight of similar construction projects.
- d. **Project Engineer (or equivalent title)** - The Project Engineer is the individual who will have corporate responsibility for the engineering of the facility as it relates to the parameters of the Contract. This individual shall have a minimum of five (5) years experience within the last seven (7) years at the management level providing direct oversight of similar engineering projects.

5.11 Tab 2 Technical Response/Service Delivery Narrative

The Respondent shall provide a Technical Response/Service Delivery Narrative identifying how Respondent will meet the Statement of Purpose and Statement of Services Sought, respectively, of this ITN. The Technical Response/Service Delivery Narrative shall be prepared in such a manner that it will be understandable to individuals on a programmatic and management level. The response shall fully describe the Respondent's proposed methodology for meeting the Department's requirements for service delivery outlined in Section 2 and Section 3, and specifically addressing any value added services as described in Section 3.16. The response shall contain sufficient detail addressing all elements of the required services, and shall be prepared in such a manner that will clearly indicate the Respondent's understanding of the services sought by the Department as set forth in the ITN.

5.12 Tab 3 References

5.12.1 Business/Corporate Experience References

The Respondent shall furnish a minimum of three (3) business/corporate references with its response package submission, utilizing the form provided as **ATTACHMENT 2** to support Respondent's stated business/corporate experience as outlined in this ITN. In order to qualify as relevant current experience, services described by corporate references shall be ongoing or have been completed within the sixty (60) months preceding the issue date of this ITN.

The references shall be completed and signed by the individual offering the reference, and certified by a notary public. Reference(s) shall identify the type of services provided by the Respondent, (which should be directly relevant to the services outlined in this ITN), dates the Respondent provided such services, the firm/agency name of the entity for which the Respondent provided services, and the reference signer's **current** telephone number and address. Reference(s) shall include statements supporting that Respondent has performed services similar in magnitude and scope to those requested in the ITN. References that do not support relevant service delivery experience shall be rejected. **Employees, other than a Contract Manager, of the Department may not be used and will not be accepted as corporate references.** The Department reserves the right to contact the above-provided references as well as reference sources not listed in the bid.

5.12.2 Key Contract Staff References

The Respondent shall provide, for the individuals identified for the positions in subsection 5.10.4.1 above, a minimum of two (2) and a maximum of four (4) references utilizing the form provided as **ATTACHMENT 3** of this ITN. Reference(s) shall be completed and signed by the individual offering the reference, and certified by a notary public. Reference(s) shall demonstrate, at a minimum, the required timeframe of work experience and shall include statements supporting the ability of the individual to perform on the Contract resulting from this ITN. Employees of the Department may not be used and will not be accepted as references. Further, references will not be accepted from persons currently or formerly supervised by the person for whom the reference is being submitted or related to that person in any way. References shall be from objective sources. The Department reserves the right to contact references not listed in the response.

5.13 Tab 4 Construction Price Response

Although this cost is not being considered as a cost to the state, it is **mandatory** that the construction cost is also received by the Department by the date and time specified in Section 4.2., Calendar of Events. The construction cost package may be submitted within the same box or container that the Facility Operation Response and the Design/Build Response. As previously indicated, no cost information may be reflected in the Facility Operation or the Design/Build Responses.

5.14 Tab 5 Performance Bond

In accordance with the provisions of Section 255.05, Florida Statutes, the Construction Manager shall provide to the Department, a 100% Performance Bond and a 100% Labor and Material Payment Bond each in an amount not less than the Total Estimated Construction Cost of the Project.

5.14.1 To be acceptable to the Department as surety for Performance Bonds and Labor and Material Payment Bonds, the Construction Manager shall secure bonds from a Surety Company that complies with the following provisions:

5.14.1.1. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Financial Services, authorizing it to write surety bonds in the State of Florida.

5.14.1.2. The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

5.14.1.3. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

5.14.1.4. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the bond is issued.

5.14.2 If the Initial Guaranteed Maximum Price (IGMP) exceeds \$500,000.00, the Surety Company must also meet the following provisions:

5.14.2.1 The Surety Company shall have at least the following minimum ratings in the latest issue of Best's Key Rating Guide.

POLICY REQUIRED HOLDER'S FINANCIAL		
CONTRACT AMOUNT	RATING	RATING
\$ 500,000 TO 1,000,000	A	CLASS I
1,000,000 TO 2,000,000	A	CLASS II
2,000,000 TO 5,000,000	A	CLASS III
5,000,000 TO 10,000,000	A	CLASS IV
10,000,000 TO 25,000,000	A	CLASS V
25,000,000 TO 50,000,000	A	CLASS VI
50,000,000 TO 100,000,000	A	CLASS VII

5.14.2.2 The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

- a.** Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier provided that authorization or approval by the State of Florida, Department of Financial Services to do business in this state has been met.
- b.** In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, and the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

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SECTION 6 – REVIEW, EVALUATION, AND NEGOTIATION PROCESS

The Department will conduct a comprehensive, fair, and impartial review and evaluation of all responses received in response to this ITN in compliance with the due dates specified in the Calendar of Events (Subsection 4.2). The review and evaluation will be conducted in accordance with the process set forth in Section 6.1, Review and Evaluation Process. The Department intends to negotiate with the highest ranking Respondent(s).

Issuance of the ITN in no way constitutes a commitment by the Department to award a contract.

This section provides an overview of the response review, evaluation and negotiation process. It follows the process from response receipt to final Contract award. The process itself is divided into nine separate phases. These phases are:

- Phase 1 – Public Opening and Review of Mandatory Responsiveness Requirements/Fatal Criteria (Tab 1)
- Phase 2 – Evaluations of Statement of Qualifications (Tab 2, of the Facility Operation Response and Tab 1 of the Design/Build Response) and Technical Proposal Narrative(Tab 3 of the Facility Operation Response and Tab 2 of the Design/Build Response)
- Phase 3 – Review of Corporate/Business References and Other Submission Requirements (Tabs 4, 5, 6, 7 and 8 of the Facility Operation Response and Tab 3 of the Design/Build Response)
- Phase 4 – Review of Initial Cost Proposals
- Phase 5 – Ranking of Responses for Negotiations
- Phase 6 – Posting of Qualified Respondents
- Phase 7 – Negotiations
- Phase 8 – Best and Final Offers from Respondents
- Phase 9 – Notice of Agency Decision

Staff members of the Department's Bureau of Procurement and Supply (BPS) will perform phases 1, 3, 4, 5, 6, and 9 and will assist with phases 7 and 8.

Phases 2, 7, and 8 will be completed by the Response Evaluation/Negotiation Committee. A Response Evaluation/Negotiation Committee will be established to assist the Department in the evaluation and selection of the three highest ranking responses. Any response failing to meet mandatory responsiveness requirements will **not** be evaluated. The committee will evaluate the Statement of Qualifications (Categories 1-3) and the Technical Proposal Narrative of all responses that meet mandatory responsiveness requirements/fatal criteria. The Response Evaluation/Negotiation Committee will score the Statement of Qualifications and Technical Proposal Narrative according to established criteria. This team will then conduct negotiations with the highest ranking Respondent(s). The Department reserves the right to make changes to the committee's composition in the best interests of the Department.

Response Review and Evaluation Points

The following shows the maximum number of points that may be awarded for each part of the submitted response package:

1. Mandatory Responsiveness Requirements/Fatal Criteria	0 points
2. Statement of Qualifications	
Category 1 - Business/Corporate Experience	100 points
Category 2 - Organizational Charts	10 points
Category 3 – Key Contractor Staff	40 points
3. Technical Response	250 points
4. a. Initial Dialysis Treatment Price Response	90 points
b. Initial Nephrologists Services Price Response	10 points
TOTAL POSSIBLE POINTS for INITIAL RANKING	500 points

6.1 Review and Evaluation Process

6.1.1 Phase 1 – Public Opening and Review of Mandatory Responsiveness Requirements

Responses will be publicly opened at the date and time specified in Subsection 4.2, Calendar of Events. Responses will be reviewed by BPS staff to determine if they comply with the mandatory responsiveness requirements/fatal criteria listed in Section 5 of the ITN. This will be a **yes/no** review, conducted by BPS staff, to determine if all requirements have been met. **Failure to meet any of these mandatory responsiveness requirements will render a response non-responsive and result in rejection of the entire response. Further evaluation will not be performed.**

No points will be awarded for passing the mandatory responsiveness requirements.

6.1.2 Phase 2 – Evaluation of the Statement of Qualifications & Technical Proposal Narrative

Only those responses which have met the mandatory responsiveness requirements will be considered responsive and will be delivered to the Evaluation Committee to be evaluated as described in Phase 2. **All evaluation criteria to be utilized in evaluation of each category of the Statement of Qualifications and Technical Proposal Narrative are listed in Attachment 7.**

6.1.2.1 Category 1 – Respondent's Business/Corporate Experience

"Respondent's Business/Corporate Experience" will be evaluated by the Evaluation Committee based on the information supplied by the Respondent as required in Section 5, Business Corporate References. The Respondent's Business/Corporate Experience Points will be determined by adding the Business/Corporate Experience points for the Design/Build Proposal to the points for the Facility Operations Proposal. A maximum of one hundred (100) points will be given to the Respondent with the Business/Corporate Experience that received the highest number of total points. Points for the other responses will be determined using the following formula:

$$(X / N) \times 100 = Z$$

Where: N = highest **actual** Business/Corporate Experience points received by any response.
X = actual Business/Corporate Experience points received by Respondent.
Z = awarded points.

6.1.2.2 Category 2 – Respondent's Organizational Chart (Facility Operations Proposal)

The **Respondent's Organizational Chart** will be evaluated based on information submitted by the Respondent as required in Section 5 of this ITN. A maximum of ten (10) points will be given to the Respondent with the Business/Corporate Organizational Chart that received the highest number of points. Points for the other responses will be determined using the following formula:

$$(X / N) \times 10 = Z$$

Where: N = highest **actual** Organizational Chart points received by any response.
X = actual Organizational Chart points received by the Respondent's response.
Z = awarded points.

6.1.2.3 Category 3 –Key Contractor Staff

The **Respondent's Key Contractor Staff** will be evaluated based on the information supplied by the Respondent in response to Sections 5 of this ITN. The factors to be considered in evaluating Key Contractor Staff/ are listed in **Attachment 7**. The Respondent's Key Contractor Staff points will be determined by adding the Key Contractor Staff points for the Design/Build Proposal to the points for the Facility Operations Proposal.

A maximum of forty (40) points will be given to the Respondent with the Key Contractor Staff section that received the highest number of points. Points for the other responses will be determined using the following formula:

$$(X / N) \times 40 = Z$$

Where: N = highest **actual** Key Contractor Staff points received by any response.
X = actual Key Contractor Staff points received by the Respondent's response.
Z = awarded points.

6.1.2.4 Technical Response Narrative

The **Technical Response** will be evaluated based on the information supplied by the Respondent in response to Section 5 of this ITN. The factors to be considered in evaluating the Technical Response are listed in **Attachment 7**.

The Respondent's Technical Response points will be determined by adding the Technical Response points for the Design/Build Proposal to the points for the Facility Operations Proposal. A maximum of two hundred fifty (250) points will be given to the Respondent with the Technical Proposal section that received the highest number of points. Points for the other responses will be determined using the following formula:

$$(X / N) \times 250 = Z$$

Where: N = highest **actual** Technical Proposal points received by any response.
X = actual Technical Proposal points received by the Respondent's response.
Z = awarded points.

6.1.3 Phase 3 – Review of References & Other Response Submission Requirements

The Bureau of Procurement and Supply staff will review Business/Corporate References as provided by the Respondent in Section 5 of this ITN and may contact references for additional information/verification of business experience. In addition, staff will review other response submission requirements as determined necessary. The Department is not limited to verifying references submitted solely by the Respondent and may utilize other sources.

6.1.4 Phase 4 – Review of Initial Dialysis Treatment and Nephrologist Services Price Proposal Responses

Each Initial Dialysis Treatment and Nephrologist Services Price Proposal response as provided by the Respondent in Section 5 of this ITN will be reviewed by Bureau of Procurement and Supply staff only and will not be provided to members of the Response Evaluation Team. Initial Dialysis Treatment and Nephrologist Services Price Proposals will be examined to determine if they are consistent with the response and that all calculations are accurate. In the event that a mathematical error is identified, unit cost submitted by the Respondent, if applicable will prevail. Points will be awarded based on the following:

The Proposal with the **lowest percentage Medicare rate** fee of recovered monies will be awarded ninety (90) points for Dialysis Treatment and ten (10) points for Nephrologist Services. All other price responses will receive points according to the following formula:

$$(N / X) \times 90 = Z$$

Where: N = lowest percentage Medicare rate charge for Dialysis Treatment of all responses submitted.
X = Respondent's lowest percentage Medicare rate charge.
Z = points awarded.

AND:

$$(N / X) \times 10 = Z$$

Where: N=lowest percentage Medicare rate charge for Nephrologist Services of all responses submitted.
X = Respondent's lowest percentage Medicare rate charge.
Z = points awarded.

6.1.5 Phase 5 – Ranking of Responses For Negotiations

The points awarded for the Statement of Qualifications, Technical Responses and Initial Dialysis Treatment Price Proposal will be totaled to determine the final score of all responses. A final ranking of responses will then be determined.

6.1.6 Phase 6 – Posting of Notice of Qualified Respondents

The Department will post a Notice of Qualified Respondents for negotiation purposes as described in Section 4.4 of the ITN.

6.2 Identical Tie Responses

When evaluating bids/proposals/responses to solicitations, if the Department receives identical pricing or scoring from multiple Respondents, the Department shall determine the order of award using the criteria set forth in Rule 60A-1.011, F.A.C. and Chapter 295.187, F.S.

6.3 Phase 7 – Negotiations

The Department intends to conduct negotiations with highest ranking qualified Respondent(s) whose provision of service best meets the needs of the Department. The Department may negotiate with more than one prospective Respondent at a time, but is under no obligation to do so. After negotiations, the Department will request Best and Final Offers for final consideration prior to final award decision. Due to the urgent need for timely service implementation and delivery, all negotiations will be conducted during a one week or less time period. Respondents shall plan travel accordingly.

The Procurement Manager shall randomly select appointment times for each of the Respondents for negotiation meetings and provide e-mail notification of time and locations. The Department will begin negotiations as determined necessary by the Department. The Department reserves the right to conduct negotiations sequentially or concurrently.

If the Department is unable to reach agreement with a Respondent on contractual issues, the Department may eliminate that Respondent from further consideration. During negotiations, the Respondent shall have a person present who can make binding decisions for the responding entity.

6.4 Phase 8 - Best and Final Offers

Respondents will be asked to submit to the Department their Best and Final Offer in accordance with revised specifications, if applicable, as set forth in the Department's Request for Best and Final Offers. The Respondents Best and Final Offers shall contain the best pricing option the Respondent is prepared to offer, however, after submission of Best and Final Offers, the Department reserves the right to clarify any element of required service delivery or further negotiate pricing (based on the Department's budget constraints) with a single or all qualified Respondents prior to final award. After receipt of BAFO's, the Negotiation Team will enter a recommendation as to which Respondent provides the best value to the state. The Department may or may not rank BAFO responses. Bureau of Procurement & Supply staff will prepare a summary report of negotiations. Award will be made in compliance with Section 287.057 (3) (b), Florida Statutes.

6.5 Phase 9 - Notice of Agency Decision

The Department will post a Notice of Agency Decision as described in Section 4.4 of the ITN.

SECTION 7 - CONTRACT TERMS AND CONDITIONS

This section contains standard terms and conditions that shall be included in any Contract resulting from this ITN. By submitting a response to this ITN, the Respondent is deemed to have accepted these terms and conditions in their entirety.

7.1 Contract Document

When a Contract is established between the Department and the Contractor for specific services, this ITN, the Respondent's response and all terms negotiated shall be incorporated into and thereby become a part of that Contract. If there is a conflict in language, the Department's Contract will govern.

7.2 Contract Term

The Department anticipates entering into a single Contract under this ITN. It is anticipated that the initial term of any Facility Operation Contract resulting from this ITN shall be for a ten (10)-year period. At its sole discretion, the Department may renew the Contract for one (1) additional ten (10)-year period. Renewal shall be contingent, at a minimum, on satisfactory performance of the Contract by the Respondent as determined by the Department, and subject to the availability of funds. If the Department desires to renew the Contract resulting from this ITN, it will provide written notice to the Respondent no later than ninety (90) days prior to the Contract expiration date.

7.3 Termination

This solicitation and subsequent Contract are for the construction and operation of a medical facility. As there is no financial obligation from the State to the Contract Vendor for the construction costs, there will be a return to the Contract Vendor for the construction if the Contract is terminated earlier than contracted and through an approved amortization schedule. The length of time and amounts will be negotiated through the solicitation process. Sections 7.3.1, and 7.3.2, will apply.

7.3.1 Termination Because of Lack of Funds

In the event funds to finance the Contract resulting from this ITN become unavailable, the Department may terminate the Contract upon no less than twenty-four (24) hours notice in writing to the Contractor. Notice shall be delivered by certified mail (return receipt requested), facsimile, by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery. The Department shall be the final authority as to the availability of funds.

7.3.2 Termination for Unauthorized Employment

Violation of the provisions of Section 274A of the Immigration and Nationality Act shall be grounds for unilateral cancellation of the Contract resulting from this ITN.

7.3.3 Termination for Cause

If a breach of the Contract resulting from this ITN occurs by the Contractor, the Department may, by written notice to the Contractor, terminate the Contract resulting from this ITN upon twenty-four (24) hours notice. Notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery. If applicable, the Department may employ the default provisions in Chapter 60A-1, Florida Administrative Code. The provisions herein do not limit the Department's right to remedies at law or to damages.

7.4 Payments and Invoices

7.4.1 Payment by the Department

The Department will pay the Contractor on a monthly basis for services rendered in accordance with the Contract resulting from this ITN, unless otherwise negotiated.

7.4.2 MyFloridaMarketPlace Transaction Fee

The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C. For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee. The Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is nonrefundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement. Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES SHALL BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

7.4.3 Invoice Submission

The Contractor agrees to request compensation by electronically submitting proper invoices to the Contract Manager, or designee on a monthly basis, within fifteen (15) days following the end of the month for which payment is being requested. The specific addresses for invoice submission will be identified in the Contract resulting from this ITN. The Contractor's invoice shall include the Contractor's name, mailing address, and tax ID number/FEIN as well as the Contract number and date of invoice period. Every invoice must be accompanied by the appropriate supporting documentation as indicated in Section 7.4.4, Supporting Documentation for Invoice.

Invoices will be reviewed and approved by the Contract Manager or designee and then forwarded electronically to the appropriate Financial Services' Office for processing of payment.

7.4.4 Supporting Documentation for Invoice

Invoices must be submitted in detail sufficient for a proper preaudit and postaudit thereof. **Invoices will only be approved after receipt of the approved CMMS forms as supporting documentation.**

Any additional documentation such as reports that must accompany the invoice shall be submitted with the invoice by the Contractor to ensure the Department will approve the invoice for payment.

7.4.5 Electronic Transfer of Funds

If requested, the Department may expedite payment of all Contractor invoices and make payment to the Contractor electronically, in accordance with Chapter 215, Florida Statutes. In order to receive Electronic Funds Transfers for payments of work performed under this Contract, the Contractor must contact the Florida Department of Financial Services, Bureau of Accounting, EFT Section. The current contacts for the EFT Section at the Department of Financial Services are Jack Peterson at (850) 410-9434 or Steve Smith at (850) 410-9372.

7.5 Expenses

7.5.1 Travel Expenses

The Department shall not be responsible for the payment of any travel expense for the Contractor which occurs as a result of the Contract resulting from this ITN.

7.5.2 Contractor's Expenses

The Contractor shall pay for all licenses, permits, and inspection fees or similar charges required for this Contract, and shall comply with all laws, ordinances, regulations, and any other requirements applicable to the work to be performed under the Contract resulting from this ITN.

7.6 Contract Modifications

Modifications to the provisions of the Contract resulting from this ITN, with the exception of Subsection 7.7 Contract Management, shall be valid only through execution of a formal Contract amendment, signed by both parties unless otherwise authorized by this ITN. If cost increases occur as a result of any modification of the contract, in no event may such increases result in the total compensation paid under the Contract exceeding the amount appropriated for this project.

7.6.1 Department Required Scope Changes

During the term of the Contract, the Department may unilaterally require, by written notice, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Department may make an equitable adjustment, (i.e. increase or decrease in rate, reimbursement for costs, etc.) if the change affects the cost or service delivery. The Contractor will be required to expeditiously execute an amendment to effect such changes, which execution shall not be unreasonably withheld. The Department shall endeavor to provide written notice to the Contractor thirty (30) days in advance of any Department-required changes to the technical specifications and/or scope of service that affect the Contractor's ability to provide the services as specified herein.

7.6.2 Other Requested Changes

In addition to changes pursuant to Section 7.6.1, state or federal laws, rules and regulations or Department, rules and regulations may change. Such changes may impact Contractor's service delivery in terms of materially increasing or decreasing the Contractor's cost of providing services. There is no way to anticipate what those changes will be nor is there any way to anticipate the costs associated with such changes.

Either party shall have ninety (90) days from the date such change is implemented to request an increase or decrease in compensation or the applicant party will be considered to have waived this right. Full, written justification with documentation sufficient for audit will be required to authorize an increase in compensation. It is specifically agreed that any changes to payment will be effective the date the changed scope of services is approved, in writing, and implemented.

If the parties are unable to negotiate an agreed-upon increase or decrease in rate or reimbursement, the Deputy Assistant Secretary of Health Services - Administration shall determine, based upon the changes made to the scope of services, what the resultant change in compensation should be.

7.7 Contract Management

The Department of Corrections will be responsible for management of the Contract resulting from this ITN. The Department has assigned the following named individuals, address and phone number as indicated, as Contract Manager and Contract Administrator for the Contract.

7.7.1 Department's Contract Manager(s)

The Contract Manager(s) for this Contract will be identified in the resultant Contract.

The Contract Manager or his designee will perform all Department designated monitoring tasks designated in the Scope of Service as well as the following functions:

- 7.7.1.1** maintain a Contract Management file;
- 7.7.1.2** serve as the liaison between the Department and the Contractor;
- 7.7.1.3** monitor the Contractor's progress;
- 7.7.1.4** direct the Contract Administrator to process all amendments, renewals and terminations of the Contract resulting from this ITN; and
- 7.7.1.5** evaluate Contractor performance upon completion of the overall Contract. This evaluation will be placed on file and may be considered if the Contract is subsequently used as a reference in future procurements.

The Contract Manager may delegate the following functions to the designated Department employees:

- 7.7.1.6** verify receipt of deliverables from the Contractor;
- 7.7.1.7** monitor the Contractor's performance; and
- 7.7.1.8** review, verify, and approve invoices from the Contractor.

7.7.2 Department's Contract Administrator

The Contract Administrator for the Contract will be:

Chief, Bureau of Procurement and Supply
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
850-488-6671 (telephone)
850-921-6902 (facsimile number)

The Contract Administrator may delegate the following functions to the designated Department employees:

- 7.7.2.1** maintain the Contract Administration file;
- 7.7.2.2** process all Contract amendments, renewals, and termination of the Contract; and
- 7.7.2.3** maintain the official records of all formal Contract correspondence between the Department and the Contractor.

7.7.3 Contract Management Changes

After execution of the Contract resulting from this ITN, any changes in the information contained in Section IV., Contract Management, of that Contract, will be provided to the other party in writing and a copy of the written notification shall be maintained in the official Contract record.

7.8 Annual Appropriation

The State of Florida's and the Department's performances and obligations to pay for services under the Contract resulting from this ITN are contingent upon an annual appropriation by the Legislature. The costs of services paid under any other Contract or from any other source are not eligible for reimbursement under the Contract resulting from this ITN.

7.9 Vendor Ombudsman

A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted by calling the State Comptroller's Toll Free Hotline.

7.10 Records

7.10.1 Public Records Law

The Contractor agrees to allow the Department and the public access to any documents, papers, letters, or other materials subject to the provisions of Chapter 119 and 945.10, Florida Statutes, made or received by the Contractor in conjunction with the Contract resulting from this ITN. The Contractor's refusal to comply with this provision shall constitute sufficient cause for termination of the Contract resulting from this ITN.

7.10.2 Audit Records

The Contractor agrees to maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Department under the Contract resulting from this ITN, and agrees to provide a financial and compliance audit to the Department or to the Office of the Auditor General and to ensure that all related party transactions are disclosed to the auditor.

The Contractor agrees to include all record-keeping requirements in all subcontracts and assignments related to the Contract resulting from this ITN.

7.10.3 Retention of Records

The Contractor agrees to retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertaining to the Contract resulting from this ITN for a period of seven (7) fiscal years following the termination of the Contract. The Contractor shall maintain complete and accurate record-keeping and documentation as required by the Department and the terms of the Contract resulting from this ITN. Copies of all records and documents shall be made available for the Department upon request. All invoices and documentation must be clear and legible for audit purposes. All documents must be retained by the Contractor at the address listed in the ITN for the duration of the Contract. Any records not available at the time of an audit will be deemed unavailable for audit purposes. Violations will be noted and forwarded to the Department's Inspector General for review. All documents must be retained by the Contractor at the Contractor's primary place of business for a period of seven (7) fiscal years following termination of the Contract, or, if an audit has been initiated and audit findings have not been resolved at the end of seven (7) fiscal years, the records shall be retained until resolution of the audit findings. The Contractor shall cooperate with the Department to facilitate the duplication and transfer of any said records or documents during the required retention period, and make the data available in a Department approved format. The Contractor shall advise the Department of the location of all records pertaining to this Contract and shall notify the Department by certified mail within ten (10) days if/when the records are moved to a new location.

7.11 State Objectives

Within thirty (30) calendar days following award of the Contract, the Contractor shall submit plans addressing each of the State's four (4) objectives listed below, to the extent applicable to the items/services covered by this solicitation.

(Note: Diversity plans and reporting shall be submitted to Jane Broyles, MBE Coordinator, Bureau of Procurement and Supply, Department of Corrections, 2601 Blair Stone Road, Tallahassee, FL 32399-2500. All other plans shall be submitted to the Contract Manager or designee as specified in the final Contract resulting from this ITN.)

7.11.1 Diversity in Contracting: The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in

the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The state is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the state is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the state's procurement process as both Contractors and sub-contractors in this solicitation. Small, minority-, women-, and service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises.

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Diversity in Contracting documentation should identify any participation by diverse contractors and suppliers as prime contractors, sub-contractors, vendors, resellers, distributors, or such other participation as the parties may agree. Diversity in Contracting documentation shall include the timely reporting of spending with certified and other minority/service-disabled veteran business enterprises. Such reports must be submitted at least monthly and include the period covered, the name, minority code and Federal Employer Identification Number of each minority/service-disabled veteran vendor utilized during the period, commodities and services provided by the minority/service-disabled veteran business enterprise, and the amount paid to each minority/service-disabled veteran vendor on behalf of each purchasing agency ordering under the terms of this Contract.

- 7.11.2 Environmental Considerations:** The State supports and encourages initiatives to protect and preserve our environment. If applicable, the Contractor shall submit a plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Contractor shall also provide a plan for reducing and/or handling of any hazardous waste generated by Contractor's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.
- 7.11.3 Products Available from the Blind or Other Handicapped (RESPECT):** The State/Department supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>. If applicable, the Contractor shall submit a plan describing how it will address the use of RESPECT in offering the items bid.
- 7.11.4 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE):** The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the same procedures set forth in Section 946.515(2), and (4), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as

dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>. If applicable, the Contractor shall submit a plan describing how it will address the use of PRIDE in offering the items bid.

7.12 Sponsorship

If the Contractor is a non-governmental organization which sponsors a program financed partially by State funds, including any funds obtained through the Contract resulting from this ITN, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by *Contractor's name* and the State of Florida, Department of Corrections." If the sponsorship reference is in written material, the words "State of Florida, Department of Corrections" shall appear in the same size letters or type as the name of the organization.

7.13 Employment of Department Personnel

The Contractor shall not knowingly engage in this project, on a full-time, part-time, or other basis during the period of the Contract resulting from this ITN, any current or former employee of the Department where such employment conflicts with Section 112.3185, Florida Statutes.

7.14 Non-Discrimination

No person, on the grounds of race, creed, color, national origin, age, gender, marital status or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to, discrimination in the performance of the Contract resulting from this ITN.

7.15 Americans with Disabilities Act

The Contractor shall comply with the Americans with Disabilities Act. In the event of the Contractor's noncompliance with the nondiscrimination clauses, the Americans with Disabilities Act, or with any other such rules, regulations, or orders, the Contract resulting from this ITN may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Contracts.

7.16 Indemnification for Contractors Acting as an Agent of the State

The Contractor shall be liable, and agrees to be liable for, and shall indemnify, defend, and hold the Department, its employees, agents, officers, heirs, and assignees harmless from any and all claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by the Contractor, or its employees or agents, in the course of the operations of this Contract, including any claims or actions brought under Title 42 USC §1983, the Civil Rights Act, up to the limits of liability set forth in Section 768.28, Florida Statutes.

7.17 Contractor's Insurance for Contractors Acting as an Agent of the State

The Contractor warrants that it is and shall remain for the term of this Contract, in compliance with the financial responsibility requirements of Section 458.320, Florida Statutes, and is not entitled to, and shall not claim, any exemption from such requirements. The Contractor also warrants that funds held under Section 458.320, Florida Statutes, are available to pay claims against the State in accordance with Section VII., H., Indemnification for Contractors Acting as an Agent of the State.

The Contractor agrees to provide adequate liability insurance coverage to the extent of liability under Section 768.28, Florida Statutes, on a comprehensive basis and to hold such liability insurance at all times during the existence of this Contract. Upon the execution of this Contract, the Contractor shall furnish the Contract Manager written verification supporting such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Department reserves the right to require additional insurance where appropriate.

If the Contractor is a state agency or subdivision as defined in Section 768.28, Florida Statutes, the Contractor shall furnish the Department, upon request, written verification of liability protection in accordance with Section 768.28, Florida Statutes. Nothing herein shall be construed to extend any party's liability beyond that provided in Section 768.28, Florida Statutes.

7.18 Copyrights, Right to Data, Patents and Royalties

Where activities supported by the Contract resulting from this ITN produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Department has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Department to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, will vest in the State of Florida, Department of State, for the exclusive use and benefit of the state. Pursuant to Section 286.021, Florida Statutes, no person, firm or corporation, including parties to the Contract resulting from this ITN, shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Department of State.

The Department shall have unlimited rights to use, disclose or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Contractor under the Contract resulting from this ITN. All computer programs and other documentation produced as part of the Contract resulting from this ITN shall become the exclusive property of the State of Florida, Department of State, with the exception of data processing software developed by the Department pursuant to Section 119.083, Florida Statutes, and may not be copied or removed by any employee of the Contractor without express written permission of the Department.

The Contractor, without exception, shall indemnify and hold harmless the Department and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or un-patented invention, process, or article manufactured or supplied by the Contractor. The Contractor has no liability when such claim is solely and exclusively due to the combination, operation, or use of any article supplied hereunder with equipment or data not supplied by the Contractor or is based solely and exclusively upon the Department's alteration of the article. The Department will provide prompt written notification of a claim of copyright or patent infringement and will afford the Contractor full opportunity to defend the action and control the defense of such claim.

Further, if such a claim is made or is pending, the Contractor may, at its option and expense, procure for the Department the right to continue use of, replace, or modify the article to render it non-infringing. (If none of the alternatives are reasonably available, the Department agrees to return the article to the Contractor upon its request and receive reimbursement, fees and costs, if any, as may be determined by a court of competent jurisdiction.) If the Contractor uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the Contract prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work to be performed hereunder.

7.19 Disputes

Any dispute concerning performance of this Contract shall be resolved informally by the Contract Manager. Any clinical dispute that can not be resolved informally shall be reduced to writing and delivered to the Department's Assistant Secretary of Health Services. The Deputy Assistant Secretary of Health Services-Clinical shall decide the dispute, reduce the decision to writing, and deliver a copy to the Contractor, the Contract Manager, and the Contract Administrator. Any administrative dispute that can not be resolved informally shall be reduced to writing and delivered to the Department's Deputy Assistant Secretary of Health Services-Administration. The Deputy Assistant Secretary of Health Services-Administration shall decide the dispute, reduce the decision to writing, and deliver a copy to the Contractor, the Contract Manager, and the Contract Administrator.

7.20 Contractors Acting as an Agent of the State

In the Contractor's performance of its duties and responsibilities under this Contract, the Contractor shall, at all times, act and perform as an agent of the Department, but not as an employee of the Department. The Department shall neither have nor exercise any control or direction over the methods by which the Contractor shall perform its work and functions

other than as provided herein. Nothing in this Contract is intended to, nor shall be deemed to constitute, a partnership or joint venture between the parties.

7.21 Subcontracts

The Contractor is fully responsible for all work performed under the Contract resulting from this ITN. The Contractor may, upon receiving prior written consent from the Department's Contract Manager, enter into written subcontract(s) for performance of certain of its functions under the Contract resulting from this ITN. No subcontract, which the Contractor enters into with respect to performance of any of its functions under the Contract resulting from this ITN, shall in any way relieve the Contractor of any responsibility for the performance of its duties. All payments to subcontractors shall be made by the Contractor.

If a subcontractor is utilized by the Contractor, the Contractor shall pay the subcontractor within seven (7) working days after receipt of full or partial payments from the Department, in accordance with Section 287.0685, Florida Statutes. It is understood and agreed that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Contractor shall be solely liable to the subcontractor for all expenses and liabilities under the Contract resulting from this ITN. Failure by the Contractor to pay the subcontractor within seven (7) working days will result in a penalty to be paid by the Contractor to the subcontractor in the amount of one-half (½) of one percent (1%) of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.

7.22 Assignment

The Contractor shall not assign its responsibilities or interests under the Contract resulting from this ITN to another party without prior written approval of the Department's Contract Manager. The Department shall, at all times, be entitled to assign or transfer its rights, duties and obligations under the Contract resulting from this ITN to another governmental agency of the State of Florida upon giving written notice to the Contractor.

7.23 Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under the Contract resulting from this ITN or interruption of performance resulting directly or indirectly from acts of God, accidents, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

7.24 Substitution of Key Personnel

In the event the Contractor desires to substitute any key personnel submitted with his/her response, either permanently or temporarily, the Department shall have the right to approve or disapprove the desired personnel change in advance in writing.

7.25 Severability

The invalidity or unenforceability of any particular provision of the Contract resulting from this ITN shall not affect the other provisions hereof and the Contract resulting from this ITN shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of the Contract resulting from this ITN can still be determined and effectuated.

7.26 Use of Funds for Lobbying Prohibited

The Contractor agrees to comply with the provisions of Section 216.347, Florida Statutes, which prohibits the expenditure of state funds for the purposes of lobbying the Legislature, the Judicial branch, or a state agency.

7.27 Governing Law and Venue

The Contract resulting from this ITN is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Florida. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

7.28 No Third Party Beneficiaries

Except as otherwise expressly provided herein, neither the Contract resulting from this ITN, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to, any party not a signatory hereto.

7.29 Reservation of Rights

The Department reserves the exclusive right to make certain determinations regarding the service requirements outlined in the Contract resulting from this ITN. The absence of the Department setting forth a specific reservation of rights does not mean that any provision regarding the services to be performed under the Contract resulting from this ITN are subject to mutual agreement. The Department reserves the right to make any and all determinations exclusively which it deems are necessary to protect the best interests of the State of Florida and the health, safety and welfare of the Department's inmates and of the general public which is serviced by the Department, either directly or indirectly, through these services.

7.30 Cooperative Purchasing

Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases in accordance with the terms and conditions contained herein. The Department shall not be a party to any transaction between the Contractor and any other purchaser.

Other state agencies wishing to make purchases from this agreement are required to follow the provisions of Section 287.042(16) (a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the Contract is cost effective and in the best interest of the State.

7.31 Scope Changes after Contract Execution

During the term of the Contract resulting from this ITN, the Department may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract.

The Department may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

The Department shall provide written notice to the Contractor five (5) days in advance of any Department-required changes to the technical specifications and/or scope of service that affect the Contractor's ability to provide the service as specified herein. Any changes that are other than purely administrative changes will require a formal contract amendment.

All changes will be conducted in a professional manner utilizing best industry practices. The Department expects changes to be made timely and within prices proposed.

7.32 Health Insurance Portability and Accountability Act

The Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (42 U. S. C. 1320d-8), and all applicable regulations promulgated there under. Such compliance shall be required by the execution of **Attachment 8**, Business Associate Agreement for HIPAA, which is incorporated herein as if fully stated.

7.33 Performance Guarantee

The Contractor shall post a performance guarantee with the Department in an amount determined to be adequate to protect the State's interests but not higher than the full amount estimated to be paid annually under the Contract. In addition, annual adjustments to account for fluctuations in inflation will be factored.

The form of the guarantee shall be a bond, cashier's check, or money order made payable to the Department. The guarantee shall be furnished to the Contract Manager within thirty (30) days after execution of the Contract which may result from this ITN. No payments shall be made to the Contractor until the guarantee is in place and approved by the Department in writing. Upon renewal of the Contract which may result from this ITN, the Contractor shall provide proof that the performance guarantee has been renewed for the term of the Contract renewal.

Based upon Contractor performance after the initial year of the Contract, the Department may, at the Department's sole discretion, reduce the amount of the bond for any single year of the Contract or for the remaining contract period, including the renewal.

MANDATORY FORM

ATTACHMENT 1 –CERTIFICATION /ATTESTATION PAGE
ITN #09-DC-8157

1. Authority to Legally Bind the Respondent:

This is to certify that the person signing the Florida Department of Corrections ITN Acknowledgement Form and this Certification/Attestation Page is authorized to make this affidavit on behalf of the firm, and its owner, directors and officers. This person is the person in the Respondent's firm responsible for the prices and total amount of this Response and the preparation of the Response.

2. Acceptance of Terms and Conditions

This is to certify that the Respondent will comply with all terms and conditions contained within the ITN.

3. Statement of No Involvement

This is to certify that the person signing the response has not participated, and will not participate, in any action contrary to the terms of this ITN.

4. Non-Discrimination Statement

This is to certify that the Respondent does not discriminate in their employment practices with regard to race, creed, color, national origin, age, gender, marital status or disability.

5. Unauthorized Alien Statement

This is to certify that the Respondent does not knowingly employ unauthorized alien workers.

6. Statement of No Inducement:

This is to certify that no attempt has been made or will be made by the Respondent to induce any other person or firm to submit or not to submit a Response with regard to this ITN. Furthermore this is to certify that the Response contained herein is submitted in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive Response.

7. Statement of Non-Disclosure:

This is to certify that neither the price(s) contained in this Response, nor the approximate amount of this Response have been disclosed prior to negotiation or award, directly or indirectly, to any other respondent or to any competitor.

8. Statement of Non-Collusion:

This is to certify that the prices and amounts in this Response have been arrived at independently, without consultation, communications, or agreement as to any matter relating to such prices with any other respondent or with any competitor and not for the purpose of restricting competition.

9. Statement of No Investigation/Conviction:

This is to certify that Respondent, it's affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

Dated this _____ day of _____ 2010.

Name of Organization: _____

Signed by: _____

Title: _____

being duly sworn deposes and says that the information herein is true and sufficiently complete so as not to be misleading.

Subscribed and sworn before me this _____ day of _____ 2010.

Personally Known ____ OR Produced Identification ____ Type of Identification Produced _____

Notary Public: _____

My Commission Expires: _____

ATTACHMENT 2 - BUSINESS/CORPORATE REFERENCE

ITN #09-DC-8157

(THIS FORM MUST BE COMPLETED BY THE PERSON GIVING THE REFERENCE, NOT THE ENTITY FOR WHICH THE REFERENCE IS BEING GIVEN.)

THIS BUSINESS/CORPORATE REFERENCE IS FOR: _____

NAME OF PERSON PROVIDING REFERENCE: _____

TITLE OF PERSON PROVIDING REFERENCE: _____

FIRM OR BUSINESS NAME: _____

OFFICE TELEPHONE NUMBER: _____ OFFICE E-MAIL ADDRESS: _____

1. How would you describe your relationship to this business/corporate entity? (e.g. Customer, Subcontractor, Employee, Contract Manager, Friend, or Acquaintance)

2. A. If a Customer, please specifically describe the primary type of Dialysis Services, or similar services this entity provides to you.

- B. Generally describe the geographic area where services were provided. (number of counties served, section of the state, etc).

- C. What was the estimated population of clients served?

3. Did this entity act as a primary provider, or as a subcontractor? If a subcontractor, to whom? Please specifically describe the type of service that was provided by the entity for which this reference is being provided.

4. Can you identify the number of years that this entity has provided Dialysis Services, or other similar services? Please provide dates to the best of your knowledge.

5. To your knowledge, did this entity perform or provide complete Dialysis Services, or other similar services, or was any portion of the services subcontracted out (other than the actual providers)?

6. How many years have you done business with this business entity? _____ Please Provide Dates:

7. Do you have a vested interest in this business/corporate entity? If yes, what is that interest? (i.e. employee, subcontractor, stockholder, etc).

8. Have you experienced any problems with this business/corporate entity? If so, please state what the problem is/was and how it was resolved.

9. Would you conduct business with this business/corporate entity again? If no, please state the reason.

10. Are there any additional comments you would like to make about this business entity? Use back of form if necessary.

PLEASE SIGN BELOW AND HAVE THIS FORM CERTIFIED BY A NOTARY PUBLIC. RETURN THIS FORM TO THE BUSINESS/CORPORATE ENTITY FOR WHICH YOU ARE PROVIDING THE REFERENCE. THIS REFERENCE WILL BECOME PART OF THE ITN RESPONSE.

Signed by: _____

Being duly sworn deposes and says that the information herein is true and accurate.

Subscribed and sworn before me this _____ day of _____ 2010

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

Notary Public: _____

My Commission Expires: _____ State of Commission: _____

ATTACHMENT 3 – PERSONNEL REFERENCE FORM

ITN #09-DC-8157

(THIS FORM MUST BE COMPLETED BY THE PERSON GIVING THE REFERENCE, NOT THE PERSON FOR WHOM THE REFERENCE IS BEING GIVEN.)

THIS PERSONNEL REFERENCE IS FOR: _____

THE POSITION THIS REFERENCE IS FOR: _____

NAME OF PERSON PROVIDING REFERENCE: _____

TITLE OF PERSON PROVIDING REFERENCE: _____

FIRM OR BUSINESS NAME: _____

OFFICE TELEPHONE NUMBER: _____ OFFICE E-MAIL ADDRESS: _____

1. What is your business relationship with the person for whom this reference is being provided? Please specify: business associate, supervisor, employer, former employer, or other.

2. Please indicate how long you have been in a business relationship with the above-referenced individual and the nature of the business conducted.

3. What is/was the type of your association with this person?

4. Please indicate if you worked with the above referenced individual in a capacity that related to:

A. Executive Management (please explain): _____

B. Dialysis Services Management (please explain): _____

5. Please describe the above-referenced individual's major job duties during your relationship.

6. Please assess the above referenced individual's knowledge in relation to:

A. Executive Management: _____

B. Dialysis Services Management: _____

7. Please evaluate this person's ability to solve problems, communicate with others, work under pressure and make decisions. Please evaluate this person's ability to supervise staff.

8. Please evaluate the above-referenced individual's work habits such as attendance, punctuality, dependability, and observance of work rules.

9. Please describe any strengths or weaknesses the above-referenced individual possesses.

10. Would you conduct or engage in business with this person again? If no, please state the reason.

11. Please make any additional comments here.

PLEASE SIGN BELOW AND HAVE THIS FORM CERTIFIED BY A NOTARY PUBLIC. RETURN THIS FORM TO THE BUSINESS/ CORPORATE ENTITY FOR WHOM YOU ARE PROVIDING THE REFERENCE. THIS REFERENCE WILL BECOME PART OF THE ITN RESPONSE.

Signed by: _____

Being duly sworn deposes and says that the information herein is true and accurate.

Subscribed and sworn before me this _____ day of _____ 2010

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

Notary Public: _____

My Commission Expires: _____ State of Commission: _____

ATTACHMENT 4 - CONTACT FOR CONTRACT ADMINISTRATION/CONTRACTOR REPRESENTATIVE
ITN #09-DC-8157

The Respondent shall designate one person authorized to conduct Contract administration and function as the Contractor's Representative under the Contract resulting from this ITN.

NAME: _____

TITLE: _____

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

ATTACHMENT 5 – CERTIFICATION OF DRUG FREE WORKPLACE PROGRAM
ITN #09-DC-8157

Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, preference shall be given to a bid received from a respondent that certifies it has implemented a drug-free workforce program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or Contractual services that are under response a copy of the statement specified in Subsection (1).
4. In the statement specified in Subsection (1), notify the employees that, as a condition of working on the commodities or Contractual services that are under response, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 894, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on any employee who is so convicted or require the satisfactory participation in a drug abuse assistance or rehabilitation program as such is available in the employee's community.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of applicable laws, rules and regulations.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR'S SIGNATURE

(Form revised 4/06/06)

ATTACHMENT 6 - ADDENDUM ACKNOWLEDGMENT FORM
ITN #09-DC-8157

ITN ADDENDUM – SAMPLE ONLY

Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500

RESPONSE NO: ITN #09-DC-8157

RESPONSE TITLE: Design, Build, Operate Dialysis Treatment Center

OPENING DATE: RESPONSE DUE – July 13, 2010.

ADDENDUM NO.:

DATE:

PLEASE BE ADVISED THAT THE FOLLOWING CHANGES ARE APPLICABLE TO THE ORIGINAL SPECIFICATIONS OF THE ABOVE-REFERENCED ITN:

THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL ITN. THE ADDENDUM ACKNOWLEDGMENT FORM SHALL BE SIGNED BY AN AUTHORIZED COMPANY REPRESENTATIVE, DATED AND RETURNED, AS INSTRUCTED IN SECTION 5, RESPONSE SUBMISSION REQUIREMENTS, WITH THE RESPONSE. FAILURE TO DO SO MAY SUBJECT THE RESPONDENT TO DISQUALIFICATION.

RESPONDENT: _____ BY: _____

ADDRESS: _____ TELEPHONE: _____

CITY, STATE: _____ DATE: _____

Authorized Signature

ATTACHMENT 7 - EVALUATION CRITERIA FOR INITIAL RANKING FOR ITN #09-DC-8157

1. Business/Corporate Experience = 100 points

The Department will evaluate the corporate experience, corporate resources, and capabilities of the Respondent and any subcontractors (if known) and points will be assessed based upon information provided which includes, but is not limited to the following:

- a. Relevancy and length of past experience providing dialysis treatment services or design/build services as applicable;
- b. Relevancy and length of experience performing tasks as specified in this ITN;
- c. Quality of past experience transitioning, and implementing services on a large-scale basis similar to those requested in this ITN;
- d. Complexity and detail of prior experience delivering services similar to those contemplated by the ITN;
- e. Appropriateness of licenses, permits, registration and insurance as required by law and the ITN;
- f. Relevancy of past performance of contracts, with emphasis on specific tasks as specified;
- g. Evidence of exemplary or qualitative findings, or the absence thereof in delivery of any previous contracted service delivery;
- h. Past provision of similar services either directly or via subcontracting or other means; and
- i. If subcontractors or other parties are to be utilized, relevant experience/qualifications of proposed subcontractors and percentage to be subcontracted to each.

2. Respondent's Organizational Chart: = 10 points

The Department will evaluate the Organizational Chart of the Respondent and points will be assessed based on the appropriate hierarchy of Respondent's corporate structure and staff with clearly defined responsibilities and accountability.

3. Respondent's Key Contractor Staff - 40 points

The Department will evaluate the Key Contractor Staff and points will be assessed based upon information provided which includes, but is not limited to the adequacy of background and experience, professional qualifications and credentials of the key staff to be utilized for service provision as described in the ITN.

4. Technical Response = 250 points

The Department will evaluate the Respondent's Technical Proposal Response and points will be assessed based upon information provided which includes, but is not limited to the following:

- a. Demonstration of a complete understanding and knowledge of the Department's Statement of Purpose and Statement of Services Sought;
- b. Demonstration that services can be implemented within the time frames specified;
- c. Demonstration that construction design meets or exceeds all applicable local, state, and federal law including all permitting;
- d. Method and approach to providing dialysis treatment services consistent with service tasks as described in Section 3;
- e. Ability to provide and manage a dialysis treatment center;
- f. Appropriateness of the system to geographically meet the needs of the Department; and
- g. Value Added Services to be provided by respondent which are not required by the Department.

5. Initial Price Proposal as set forth in Section 6.1.4 = 100 points (90 points for Lowest Percentage Fee Rate for Dialysis Treatment and 10 points for Lowest Percentage Rate for Nephrologists Services)

ATTACHMENT 8 – BUSINESS ASSOCIATE AGREEMENT FOR HIPAA

This Business Associate Agreement supplements and is made a part of the contract between the Florida Department of Corrections ("Department") and [Insert Contractor Name] ("Contractor"), (individually, a "Party" and collectively referred to as "Parties").

Whereas, the Department creates or maintains, or has authorized the Contractor to receive, create, or maintain certain Protected Health Information ("PHI," as that term is defined in 45 C.F.R. §164.501 and that is subject to protection under the Health Insurance Portability and Accountability Act of 1996, as amended. ("HIPAA");

Whereas, the Department is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 C.F.R. Part 160 and Part 164, Subparts A, C, and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and the Security Standards for the Protection of Electronic Protected Health Information ("Security Rule");

Whereas, the Contractor may have access to Protected Health Information in fulfilling its responsibilities under its contract with the Department;

Whereas, the Contractor is considered to be a "Business Associate" of Covered Entity as defined in the Privacy Rule;

Whereas, pursuant to the Privacy Rule, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI; and

Whereas, the purpose of this Agreement is to comply with the requirements of the Privacy Rule, including, but not limited to, the Business Associate contract requirements of 45 C.F.R. §164.504(e).

Whereas, in regards to Electronic Protected Health Information as defined in 45 C.F.R. § 160.103, the purpose of this Agreement is to comply with the requirements of the Security Rule, including, but not limited to, the Business Associate contract requirements of 45 C.F.R. §164.314(a).

Now, therefore, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions

Unless otherwise provided in this Agreement, any and all capitalized terms have the same meanings as set forth in the HIPAA Privacy Rule and/or the HIPAA Security Rule. Contractor acknowledges and agrees that all Protected Health Information that is created or received by the Department and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by the Department or its operating units to Contractor or is created or received by Contractor on the Department's behalf shall be subject to this Agreement.

2. Confidentiality Requirements

- A. Contractor agrees to use and disclose Protected Health Information that is disclosed to it by the Department solely for meeting its obligations under its agreements with the Department, in accordance with the terms of this agreement, the Department's established policies rules, procedures and requirements, or as required by law, rule or regulation.
- B. In addition to any other uses and/or disclosures permitted or authorized by this Agreement or required by law, Contractor may use and disclose Protected Health Information as follows:
 - (1) if necessary for the proper management and administration of the Contractor and to carry out the legal responsibilities of the Contractor, provided that any such disclosure is required by law or that Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been breached;

- (2) for data aggregation services, only if to be provided by Contractor for the health care operations of the Department pursuant to any and all agreements between the Parties. For purposes of this Agreement, data aggregation services means the combining of protected health information by Contractor with the protected health information received by Contractor in its capacity as a Contractor of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- C. Contractor will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Agreement. Further, Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Department. The Secretary of Health and Human Services and the Department shall have the right to audit Contractor's records and practices related to use and disclosure of Protected Health Information to ensure the Department's compliance with the terms of the HIPAA Privacy Rule and/or the HIPAA Security Rule. Contractor shall report to Department any use or disclosure of Protected Health Information, which is not in compliance with the terms of this Agreement as well as any Security incident of which it becomes aware. Contractor agrees to notify the Department, and include a copy of any complaint related to use, disclosure, or requests of Protected Health Information that the Contractor receives directly and use best efforts to assist the Department in investigating and resolving such complaints. In addition, Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- D. Contractor will ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from, or created by Contractor on behalf of the Department, agree to the same restrictions and conditions that apply to Contractor, and apply reasonable and appropriate safeguards to protect such information. Contractor agrees to designate an appropriate individual (by title or name) to ensure the obligations of this agreement are met and to respond to issues and requests related to Protected Health Information. In addition, Contractor agrees to take other reasonable steps to ensure that its employees' actions or omissions do not cause Contractor to breach the terms of this Agreement.
- E. Contractor agrees to make available Protected Health Information so that the Department may comply with individual rights to access in accordance with Section 164.524 of the HIPAA Privacy Rule. Contractor agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Contractor agrees to record disclosures and such other information necessary, and make such information available, for purposes of the Department providing an accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.
- F. The Contractor agrees, when requesting Protected Health Information to fulfill its contractual obligations or on the Department's behalf, and when using and disclosing Protected Health Information as permitted in this contract, that the Contractor will request, use, or disclose only the minimum necessary in order to accomplish the intended purpose.
- G. The Contractor agrees to defend and hold harmless the Department against any action or liability or damages arising out of or related to the Contractor's breach of its obligations under this agreement.

3. **Obligations of Department**

- A. The Department will make available to the Business Associate the notice of privacy practices (applicable to offenders under supervision, not to inmates) that the Department produces in accordance with 45 CFR 164.520, as well as any material changes to such notice.
- B. The Department shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

- C. The Department shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that impacts the business associate's use or disclosure and that the Department has agreed to in accordance with 45 CFR 164.522.

4. **Termination**

- A. **Termination for Breach** - The Department may terminate this Agreement if the Department determines that Contractor has breached a material term of this Agreement. Alternatively, the Department may choose to provide Contractor with notice of the existence of an alleged material breach and afford Contractor an opportunity to cure the alleged material breach. In the event Contractor fails to cure the breach to the satisfaction of the Department, the Department may immediately thereafter terminate this Agreement.

- B. **Automatic Termination** - This Agreement will automatically terminate upon the termination or expiration of the original contract between the Department and the Contractor.

C. **Effect of Termination**

- (1) Termination of this agreement will result in termination of the associated contract between the Department and the Contractor.
- (2) Upon termination of this Agreement or the contract, Contractor will return or destroy all PHI received from the Department or created or received by Contractor on behalf of the Department that Contractor still maintains and retain no copies of such PHI; provided that if such return or destruction is not feasible, Contractor will extend the protections of this Agreement to the PHI and limit further uses and disclosure to those purposes that make the return or destruction of the information infeasible.

4. **Amendment** - Both parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary to comply with the requirements of the Privacy Rule and/or the HIPAA Security Rule.

5. **Interpretation** - Any ambiguity in this Agreement shall be resolved to permit the Department to comply with the HIPAA Privacy Rule and/or the HIPAA Security Rule.

6. **Miscellaneous** - Parties to this Agreement do not intend to create any rights in any third parties. The obligations of Contractor under this Section shall survive the expiration, termination, or cancellation of this Agreement, or any and all other contracts between the parties, and shall continue to bind Contractor, its agents, employees, contractors, successors, and assigns as set forth herein if PHI is not returned or destroyed.

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Attachment #9 – Contractor Self-Certification of Compliance

CONDITIONS	Yes	No	N/A
RECORDS			
The Contractor certifies and agrees to allow the Department and the public access to any documents, papers, letters, or other materials subject to the provisions of Chapters 119 and 945.10, Florida Statutes, made or received by the Contractor in conjunction with the Contract.	☐	☐	☐
If applicable, the Contractor certifies that a financial and compliance audit is conducted in accordance with the applicable financial and compliance audit requirements as specified in this Contract.	☐	☐	☐
The Contractor certifies that copies of all records and documents shall be made available to the Department, upon request.	☐	☐	☐
The Contractor certifies that all invoices and documentation must be clear and legible for audit purposes.	☐	☐	☐
The Contractor certifies that all documents must be retained at the address listed in Section IV., C., Contractor's Representative, or the address listed in Section III., D., Official Payee, for the duration of this Contract.	☐	☐	☐
The Contractor certifies that all documents must be retained by the Contractor at the Contractor's primary place of business for a period of seven (7) years following termination of the Contract, or, if an audit has been initiated and audit findings have not been resolved at the end of seven (7) years, the records shall be retained until resolution of the audit findings.	☐	☐	☐
State Objectives			
The Contractor certifies that within thirty (30) calendar days following award of this contract, that it shall submit plans addressing each of the State's four (4) objectives, to the extent applicable to the items/services covered by this contract.			☐
1. Diversity in Contracting: Diversity plans and reporting shall be submitted to the MBE Coordinator, Bureau of Procurement and Supply, Department of Corrections, 2601 Blair Stone Road, Tallahassee, FL 32399-2500.	☐	☐	
All other plans shall be submitted to the Contract Manager or designee as specified in this contract.			
2. Environmental Considerations: If applicable, the identification number (i.e., valid and current Hazardous Waste Generator Identification Number) shall be submitted as part of the Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.	☐	☐	☐
Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)			
3. The Contractor certifies that any articles which are the subject of, or are required to carry out this Contract, shall be purchased from PRIDE, identified under Chapter 946, Florida Statutes, in the same manner and under the procedures set forth in Subsections 946.515(2) and (4), Florida Statutes.	☐	☐	☐
RESPECT			
4. The Contractor certifies that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such qualified nonprofit agency are concerned. Refer to the RESPECT of Florida's website at: http://www.respectofflorida.org .	☐	☐	☐

Procurement of Materials with Recycled Content			
The Contractor certifies that any products or materials which are the subject of, or are required to carry out, this Contract shall be procured in accordance with the provisions of Section 403.7065 and Section 287.045, Florida Statutes.	☐	☐	☐
Employment of Department Personnel			
The Contractor certifies that it shall not knowingly engage in this project, on a full-	☐	☐	☐

CONDITIONS	Yes	No	N/A
time, part- time, or other basis during the period of this Contract, any current or former employee of the Department where such employment conflicts with Section 112.3185, Florida Statutes.			
INSURANCE			
THE CONTRACTOR CERTIFIES AND AGREES TO PROVIDE ADEQUATE INSURANCE COVERAGE ON A COMPREHENSIVE BASIS AND TO HOLD SUCH INSURANCE AT ALL TIMES DURING THE EXISTENCE OF THIS CONTRACT.	☐	☐	☐
THE CONTRACTOR CERTIFIES UPON THE EXECUTION OF THIS CONTRACT, THAT IT SHALL FURNISH THE CONTRACT MANAGER WRITTEN VERIFICATION OF SUCH INSURANCE COVERAGE.	☐	☐	☐
SUBCONTRACTS			
If applicable, the Contractor certifies that it may, upon receiving written consent from the Department's Contract Manager, enter into written subcontract(s) for performance of certain of its functions under this Contract.	☐	☐	☐
The Contractor certifies that all payments to subcontractors shall be made by the Contractor.	☐	☐	☐
The Contractor certifies that it shall pay the subcontractor within seven (7) working days after receipt of full or partial payments from the Department, in accordance with Section 287.0585, Florida Statutes.	☐	☐	☐
If applicable, the Contractor certifies that a penalty will be paid to the subcontractor for all late payments.	☐	☐	☐
ASSIGNMENT			
The Contractor certifies that it shall not assign its responsibilities or interests under this Contract to another party without prior written approval of the Department's Contract Manager.	☐	☐	☐
CONFLICT OF INTEREST			
The Contractor certifies that it shall not compensate in any manner, directly or indirectly, any officer, agent or employee of the Department for any act or service that he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Contractor.	☐	☐	☐
Health Insurance Portability and Accountability Act			
If applicable, the Contractor certifies that it shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U. S. C. 1320d-8), and all applicable regulations promulgated thereunder. Agreement to comply with HIPAA shall be evidenced by the Contractor's execution of this Contract.	☐	☐	☐

Contract Name:	
Contract Number:	
Contractor/Representative Name:	
Contractor/Representative Signature:	
Contractor/Representative Title:	
Date:	

State Objective Plan – Date submitted to Contract Manager:	
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PRICE INFORMATION SHEET
ITN 09-DC-8157

The Department is seeking pricing that will provide the best value to the State. At this time, the Department is experiencing an extremely lean budget, so the Department desires that the resultant contract to be priced in such a manner that provides the Department with the most cost-savings as possible.

The Contractor will be paid on a percentage of Medicare rate. Pricing must include all construction costs, personnel, labor, equipment, materials services, insurance and all other things necessary to provide the services in accordance with the minimum requirements set forth in the ITN. Please provide a percentage of Medicare rate for each section below. The Department will then determine the best overall value to the state and select accordingly.

Initial Pricing – Dialysis Services	Proposed Cost
Percentage of Medicare Rate This is a single, bundled rate for all hemodialysis services.	_____ %

Initial Pricing – Nephrologists Services	Proposed Cost
Percentage of Medicare Rate This is a single rate for all nephrologists services not included in the bundled rate for hemodialysis	_____ %

Signature of Responder's Authorized Representative

Date