

Agreement Number 80-98-0041

Authority 3
Purpose of Agreement and Security Provided 3
Period of Performance and Termination 3
Assignment and Outsourcing of Jail Operations..... 4
Medical Services 4
Receiving and Discharge of Federal Detainees 5
Optional Guard/Transportation Services to Medical Facility 6
Optional Guard/Transportation Services to U.S. Courthouse 6
Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation
System (JPATS)..... 7
Special Notifications..... 8
Special Management Inmates and Suicide Prevention..... 8
Prisoner Rape Elimination Act (PREA) 8
Service Contract Act 9
Billing and Financial Provisions 10
Hold Harmless 11
Payment Procedures 11
Inspection of Services 11
Modifications 12
Litigation 12
Rape Elimination Act Reporting Information 13

Authority

Pursuant to the authority of Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553), this Agreement is entered into between the United States Marshals Service (hereinafter referred to as the "Federal Government") and **Ector County**, State or County Government (hereinafter referred to as "Local Government"), who hereby agree as follows:

Purpose of Agreement and Security Provided

The Federal Government and the Local Government establish this Agreement that allows the United States Marshals Service (USMS) or other authorized agency user as noted in block #18 on page (1) to house Federal detainees with the Local Government at the **Ector County Correctional Center, 301 N. Texas Street, Odessa, Texas 79761** (hereinafter referred to as "the Facility") designated in #6 page 1.

The population (hereinafter referred to as "Federal detainees,") will include individuals charged with Federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.

The Local Government shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Federal detainees in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the Facility. Detainees shall also be housed in a manner that is consistent with Federal law and the Core Detention Standards and/or any other standards required by an authorized agency whose detainees are housed by the Local Government pursuant to this Agreement (see attached).

The USMS ensures the secure custody, care, and safekeeping of USMS detainees. Accordingly, all housing or work assignments, and recreation or other activities for USMS detainees are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Federal Government shall have access to the Facility and to the Federal detainees housed there, and to all records pertaining to this Agreement, including financial records, for a period going back three (3) years from the date of request by the Federal Government.

Period of Performance and Termination

This Agreement is effective upon the date of signature of the authorized USMS Prisoner Operations Division official, and remains in effect unless inactivated in writing by either party. Either party may terminate this Agreement for any reason with written notice at

Agreement Number 80-98-0041

least thirty (30) calendar days in advance of termination, unless an emergency situation requires the immediate relocation of Federal detainees.

Where the Local Government has received a Cooperative Agreement Program (CAP) award, the termination provisions of the CAP prevail.

Assignment and Outsourcing of Jail Operations

The overall management and operation of the Facility housing Federal detainees may not be contracted out without the prior express written consent of the Federal Government.

Medical Services

The Local Government shall provide Federal detainees with the same level and range of care **inside** the Facility as that provided to state and local detainees. The Local Government is financially responsible for all medical care provided **inside** the Facility to Federal detainees. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications and, any prescription medications routinely stocked by the Facility which are provided to Federal detainees. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the Federal per diem rate. However, for specialized medical services not routinely provided within the Facility, such as dialysis, the Federal Government will pay for the cost of that service.

The Federal Government is financially responsible for all medical care provided **outside** the Facility to Federal detainees. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government should utilize outside medical care providers that are covered by the USMS's National Managed Care Contract (NMCC) to reduce the costs and administrative workload associated with these medical services. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for Federal detainees must be on Centers for Medicare and Medicaid (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. If the Local Government receives any bills for medical care provided to Federal detainees outside the Facility, the Local Government should immediately forward those bills to the Federal Government for processing.

All **outside** medical care provided to Federal detainees must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. In such

Agreement Number 80-98-0041

an event, the Local Government shall notify the Federal Government immediately regarding the nature of the Federal detainee's illness or injury as well as the types of treatment provided.

Medical care for Federal detainees shall be provided by the Local Government in accordance with the provisions of USMS, Publication 100-Prisoner Health Care Standards (www.usmarshals.gov/prisoner/standards.htm) and in compliance with the Core Detention Standards or those standards which may be required by any other authorized agency user. The Local Government is responsible for all associated medical record keeping.

The Facility shall have in place an adequate infectious disease control program which includes testing of all Federal detainees for Tuberculosis (TB) within 14 days of intake.

TB testing shall be accomplished in accordance with the latest Centers for Disease Control (CDC) Guidelines and the result promptly documented in the Federal detainee's medical record. Special requests for expedited TB testing and clearance (to include time sensitive moves) will be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government of any cases of suspected or active TB or any other highly communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Federal Government.

When a Federal detainee is being transferred and/or released from the Facility, they will be provided with seven (7) days of prescription medication which will be dispensed from the Facility. Medical records and the USM-553 must travel with the Federal detainee. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a Federal detainee is moved.

Federal detainees may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18, USC Section 4013(d). The Federal Government is not responsible for medical co-payments and cannot be billed for these costs even for indigent Federal detainees.

Receiving and Discharge of Federal Detainees

The Local Government agrees to accept Federal detainees only upon presentation by a law enforcement officer of the Federal Government or a USMS designee with proper agency credentials.

The Local Government shall not relocate a Federal detainee from one facility under its control to another facility not described in this Agreement without permission of the

Federal Government. Additional facilities within the same Agreement shall be identified in a modification.

The Local Government agrees to release Federal detainees only to law enforcement officers of the authorized Federal Government agency initially committing the Federal detainee (i.e., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), etc.) or to a Deputy United States Marshal (DUSM) or USMS designee with proper agency credentials. Those Federal detainees who are remanded to custody by a DUSM may only be released to a DUSM or an agent specified by the DUSM of the Judicial District.

USMS Federal detainees sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

Optional Guard/Transportation Services to Medical Facility

If Medical Facility in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for Federal detainees admitted to a medical facility.

These services should be performed by (b) (7)(E) qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases these are part of a fulltime Law Enforcement Officer (LEO) or Correctional Officer (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, prisoner monitoring, visitation, and contraband control.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to U.S. Courthouse

If U.S. Courthouse in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the U.S. Courthouse.

Agreement Number 80-98-0041

These services should be performed by (b) (7)(E) qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's transportation and escort guard will turn Federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport Federal detainees to any U.S. Courthouse without a specific request from the USM or their designee who will provide the detainee's name, the U.S. Courthouse, and the date the detainee is to be transported.

Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation unless otherwise authorized by the USMS.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS)

If JPATS in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the JPATS.

These services should be performed by (b) (7)(E) qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at JPATS, the Local Government's transportation and escort guards will turn federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport federal detainees to the airlift without a specific request from the USM who will provide the detainee's name, location (district), and the date the detainee is to be transported.

Agreement Number 80-98-0041

Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation.

If an hourly rate for these services has been agreed upon to reimburse the Local Government, it will be stipulated on in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Special Notifications

The Local Government shall notify the Federal Government of any activity by a Federal detainee which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal detainee. The Local Government shall use all reasonable means to apprehend the escaped Federal detainee and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal detainees. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal detainee is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of the death or assault or a medical emergency of a Federal detainee, the Local Government shall immediately notify the Federal Government.

Special Management Inmates and Suicide Prevention

The Local Government shall have written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under constant observation.

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

Prisoner Rape Elimination Act (PREA)

The Facility must post the Prisoner Rape Elimination Act brochure/bulletin in each housing unit of the Facility. (See Page 13) The Facility must abide by all relevant PREA regulations.

Agreement Number 80-98-0041

Service Contract Act

This Agreement incorporates the following clause by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made available. The full text of this provision may be accessed electronically at this address: <http://www.dol.gov/oasam/regs/statutes/351.htm>.

Federal Acquisition Regulation Clause(s):

52.222-41 Service Contract Act of 1965, as Amended (July 2005)

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989)

52.222-43 Fair Labor Standards Act and the Service Contract Act - Price Adjustment (Multiyear and Option Contracts) (May 1989)

The current Local Government wage rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination block #13b on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR PART 52.222.43 (f), must notify the Federal Government of any increase or decrease in applicable wages and fringe benefits claimed under this clause within 30 days after receiving a new wage determination.

Per-Diem Rate

The Federal Government will use various price analysis techniques and procedures to ensure the per-diem rate established by this Agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

1. Comparison of the requested per-diem rate with the independent Federal Government estimate for detention services, otherwise known as the Core Rate;
2. Comparison with per-diem rates at other state or local facilities of similar size and economic conditions;
3. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items;
4. Evaluation of the provided jail operating expense information;

Agreement Number 80-98-0041

The firm-fixed per-diem rate for services is stipulated in block #12 on page (1) of this agreement, and shall not be subject to adjustment on the basis of **Ector County Correctional Center** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this Agreement forward for thirty-six (36) months. The per-diem rate covers the support of one Federal detainee per "Federal detainee day", which shall include the day of arrival, but not the day of departure.

After thirty-six (36) months, if a per-diem rate adjustment is desired, the Local Government shall submit a request through the Office of the Federal Detention Trustee's (OFDT) electronic Intergovernmental Agreements (eIGA) area of the Detention Services Network (DSNetwork). All information pertaining to the Facility on the DSNetwork will be required before a new per-diem rate will be considered.

Billing and Financial Provisions

The Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal detainees housed at the Facility.

Addresses for the components are:

United States Marshals Service
Western District of Texas
655 East Cesar E. Chavez Blvd.
John H. Wood, Jr., United States Courthouse
San Antonio, Texas 78206
(210) 472-6540

Bureau of Prisons
Community Corrections Office
615 E. Houston, Room 325
San Antonio, Texas 78205
(210) 229-6225

Immigration and Customs Enforcement
Central Regional Office
Detention Deportation Division
7701 N. Stemmons Freeway
Dallas, Texas 75247
(214) 905-8344

To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed

Agreement Number 80-98-0041

(total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.

Payment Procedures

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this Agreement, on a monthly basis, promptly, after receipt of an appropriate invoice.

Hold Harmless

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

Disputes

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

Inspection of Services

Inspection standards for detainees may differ among authorized agency users. The Local Government agrees to allow periodic inspections by Federal Government inspectors, to include approved Federal contractors, in accordance with the Core Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement Findings of the

Agreement Number 80-98-0041

inspections will be shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.

Modifications

For all modifications except for full or partial terminations, either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

Litigation

The Federal Government shall be notified, in writing, of all litigation pertaining to this Agreement and provided copies of any pleadings filed or said litigation within five (5) working days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and/or the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

Agreement Number 80-98-0041

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

- Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- Call, at no expense to you, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the
Federal Detention Trustee
Washington, DC

Published February 2008