

“SOLE SOURCE” PROCUREMENT JUSTIFICATION

Sole source purchases are goods and services available from only one vendor. There may be just one vendor because of patents or copyrights or simply because the vendor is the only one which supplies the good or service. Using Department must provide a written explanation as to why only this particular product/service is acceptable and why no other will be suitable or acceptable to meet the need. A quote must accompany this form.

Department name: DETENTION CENTER

1. Name of product or service: US Marshal Service Intergovernmental Agreement
On Per Diem Rate Calculation using “i-detain”

2. Name of product manufacturer: Summerill Law Firm, PLLC

3. Name of “sole” product supplier or service provider: Summerill Law Firm, PLLC

4. Describe in general terms the product/service you are requesting and the intended application.

The firm calculates and then negotiates the daily rate agreements for housing Federal prisoners and detainees in local government jails. They use proprietary methods to calculate per diem rates for inmates as well as hospital guard and transportation rates.

5. Describe the unique features/capabilities/characteristics that distinguish it from other products/services.

This firm uses a proprietary algorithm called “i-detain” to calculate the per diem rate. This algorithm is a trade secret and not known outside of the firm. This process allows us to provide an enormous amount of easily accessed, aggregate information to the firm. The process then combines the information provided and extrapolates the proposed per diem rate from the information. In addition to developing the new rate, they prepare and submit these proposals to the US Marshals Service, through the FBI LEEP website and begin their work with the USMS Grants Officers to ensure review in a timely manner. Though there are other outlets that provide “parts” of the service detailed. They are the only single source vendor for this project.

6. How did you determine there was only one source for the product or service? Provide information on the research that was performed to locate suppliers for this product(s) or service(s).

At a recent Manager's Affiliate Retreat County Manager Macias discussed the process with Santa Fe County Manager, Gregory Shaffer. He then asked Director Baker to review the information. It was discovered that this firm has provided this highly successful, proprietary service to four counties here in New Mexico.

7. What product supplier or service provider has your Department used until now to satisfy similar requirements?

This has been done internally in the past. This is a massively labor-intensive undertaking. The return on investment is consistently less than what is reported by the vendor as well as references including Santa Fe County, Sandoval County, Luna County, and McKinley County.



Signature of Department Head

01/12/2023

Date

(Attach Quote and Use Additional Sheets As Necessary)

**This form is used by Purchasing Department to determine if a "Sole Source" procurement criterion is met. Completing this form does not guarantee approval of this type of procurement.

summerill

federal IGA solutions for local jails

1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

Office: 202-261-6540
joseph@summerill.net

January 12, 2022

Thomas Anderson
Accounting Specialist
Doña Ana County Detention Center
1850 Copper Loop
Las Cruces, NM 88005

RE: Summerill Law Firm, PLLC

Dear Mr. Anderson:

This letter is to confirm that our services of calculating; submitting; and negotiating U.S. Marshals Service (USMS) Intergovernmental Agreement per diem rates are sole source legal services exclusively performed by the Summerill Law Firm, PLLC. We have developed a proprietary algorithm which is specific with regard to calculating USMS federal per diem rates. This algorithm is a trade secret and not known outside our firm. It is also the only commercially available legal evaluation tool which complies with the U.S. Office of Management & Budget Circular 200; Chapter XXVIII – Department of Justice (2 CFR 200); and Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553). No other law firm or company makes a similar or competing algorithm, and there are no agents or dealers authorized to use our algorithm.

Please do not hesitate to contact me at 202-261-6540 with any questions.



JOSEPH SUMMERILL

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federal IGA solutions for local jails

The Summerill Group, LLC

We negotiate intergovernmental agreements for housing Federal prisoners and detainees in local government jails. First, our specialists use a proprietary algorithm, called **i-detain**, to calculate your per diem rate and hospital guard / transportation rate. Next, we prepare and submit your proposal to the U.S. Marshals Service or Immigration & Customs Enforcement, so that we can then partner with your office during the actual negotiations with the Federal Government. With over 20 years' worth of experience, our turn-key solution has assisted over a hundred local governments in twenty-nine different states. Our work has saved millions of dollars for local governments.

Summerill Group, LLC
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036
www.summerill.net

Phone: 202-261-6540

Our Management Team

Joseph Summerill is the Managing Principal Director of The Summerill Group, LLC. Joe specializes in working with the Department of Justice's BOP, USMS and the Department of Homeland Security's ICE. Before starting his own company, Mr. Summerill worked for the DOJ's Federal Bureau of Prisons, assisting the agency on the negotiation, award, and administration of Intergovernmental Service Agreements between BOP and local governments. Joe is also the CEO of Jail Geek, Inc., the creator and owner of the proprietary **i-detain** algorithms.

Michele Sharpe is the Senior Grants Officer for The Summerill Group, LLC. Michele specializes in the preparation and submission of proposals for Intergovernmental Service Agreement with BOP, USMS and ICE. Using the **i-detain** application, she calculates federal per diem rates which comply with the U.S. Office of Management & Budget Circular 200; Chapter XXVIII – Department of Justice (2 CFR 200); and Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553).

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Thomas Anderson
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1850 Copper Loop
Las Cruces, NM 88005

Subject: LETTER OF INTEREST: Assist Doña Ana County NM Prepare / Submit
Application To U.S. Marshals Service and Then Negotiate New Per Diem Rate
Under Intergovernmental Service Agreement # 51-99-0177.

Thank you for considering this “letter of interest” from the Summerill Law Firm, PLLC for preparing / submitting an application to the U.S. Marshals Service (USMS) and then negotiating a new per diem rate for Intergovernmental Service Agreement (IGA) # 51-99-0177.

SCOPE OF WORK FOR THE DOÑA ANA COUNTY PROJECT.

- The Summerill Law Firm, PLLC shall work with the Doña Ana County Detention Center staff to collect all allowable and allocable economic data regarding the costs associated with the current and future operation of the Doña Ana County Detention Center. We will examine both FY 2022 and FY 2023 costs.
- Summerill will build the Detention Center’s new federal per diem rate in compliance with the U.S. Office of Management & Budget Circular 200; Chapter XXVIII – Department of Justice (2 CFR 200); and Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553). ** We will also calculate a new hospital guard / transportation service rate for the County. **



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- Summerill will then present to the County a draft application to submit to USMS. We will also research neighboring federal per diem rates and make a strategic recommendation regarding the submittal of the County's application to USMS.
- Upon the County's approval, Summerill will upload the application along with the supporting cost data and operational data (for the new per diem rate and the new transportation / guard service rate) through the FBI LEEP (Law Enforcement Enterprise Portal) website and start working with the USMS grants officer to ensure that the application is reviewed and negotiated in a timely manner.
- The USMS grants officer will represent the federal government in the negotiation of the new per diem rate. Typically, she needs at least 30 days to review our cost data, during which time we answer all questions raised by her regarding the application.
- Mr. Summerill will then partner with County officials to conduct the actual negotiations with USMS. During these negotiations, Summerill will supply USMS with all necessary data and back up material to support the per diem rate request.
- Once the USMS grants officer determines a new per diem rate, Summerill will review that offer with the County and make a recommendation as to whether or not Doña Ana County should accept the offer or, instead, continue negotiations. Once the County and USMS agree upon new rates, Summerill will work with the USMS grants officer to answer any remaining questions during the finalization process.

ADVISORY TEAM FOR THE DOÑA ANA COUNTY PROJECT.

Joe Summerill – Mr. Summerill specializes in federal government contract legal issues related to the DOJ's United States Marshals Service and the DHS' Immigration and Customs Enforcement. Before entering private practice, Mr. Summerill was the chief contracts attorney for the U.S. Department of Justice, Federal Bureau of Prisons, where he negotiated contracts and intergovernmental service agreements.

Michele Sharpe – Ms. Sharpe specializes in submitting applications and negotiating Intergovernmental Service Agreement with the US Marshals Service and Immigration & Customs Enforcement.

The Summerill Law Firm, PLLC has developed a proprietary algorithm to calculate USMS per diem rates. We have assisted several counties in New Mexico, including: Santa Fa County (+ \$32 USMS



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per diem rate increase); Sandoval County (+ \$17 per diem rate increase); Luna County (+ \$25 per diem rate increase); and McKinley County (+ \$12 per diem rate increase).

** Just recently, we negotiated a new per diem rate of \$97 and new hospital / transportation guard rate of \$29.98 for the Santa Fe County Detention Facility. **

GOALS OF DOÑA ANA COUNTY PROJECT.

U.S. Marshal Service prisoners are housed at the Doña Ana County Detention Center under Intergovernmental Agreement # 51-99-0177 with a per diem rate of \$75.00 last updated prior to the COVID-19 pandemic in November 2019. The Detention Center is now eligible for another increase in both its federal per diem rate and guard transportation rate.

Our analysis suggests a new per diem rate of \$98 (or higher) for the Doña Ana County Detention Center. We also anticipate an increase in the hospital / transportation guard rate. With an Average Daily Population of 400 USMS prisoners, a new rate of \$98 would generate new additional annual revenue of \$3.35 M (\$276K increase per month) for Doña Ana County.

COMPENSATION FOR THE DOÑA ANA COUNTY PROJECT.

In consideration for the services described above, the Parties agree that the Summerill Law Firm, PLLC shall be paid a firm fixed fee of **EIGHTY-TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$82,750.00)**.

If the County chooses not to submit the new USMS application prepared by Summerill, no fee shall be paid to Summerill. In such a case, all work product prepared by Summerill shall remain his exclusive property.

If the County chooses not to execute the new USMS IGAs, no fee shall be paid to Summerill. In such a case, all work product prepared by Summerill shall remain his exclusive property.

The Summerill Law Firm, PLLC will submit one invoice which does not reflect an hourly breakdown of the work performed by Summerill, but instead will only state: "For Services Rendered to Doña Ana County, New Mexico In Connection With the Formation and Execution of IGA # 51-99-0177 Between Doña Ana County and the U.S. Marshals Service."



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The invoice from The Summerill Law Firm, PLLC shall be paid within 30 days of the County's execution of the new U.S. Marshals Service IGA.

TIME FRAME FOR THE DOÑA ANA COUNTY PROJECT.

From the date of engagement until the date that Doña Ana County executes a new USMS IGA is typically 90 to 110 days. If hired in February 2023, Mr. Summerill anticipates the new per diem rate in May 2023.

WAIVER OF CONFLICTS.

In consideration for the services described above, the Parties agree that the Summerill Law Firm, PLLC, may represent other Counties (including New Mexico Counties) seeking to renegotiate IGA per diem rates with U.S. Marshals Service and / or Immigration & Customs Enforcement.

EXPIRATION OF OFFER.

This Offer expires on February 20, 2023.

Thank you again for your consideration of hiring the Summerill Law Firm, PLLC for this project. Upon your approval, we will move forward.

A handwritten signature in blue ink, appearing to read "J. Summerill".

JOSEPH SUMMERILL
202-261-6540