



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

EDWARD A. DION, CPA, CIO  
COUNTY AUDITOR  
edion@epcounty.com  
www.epcounty.com/auditor

County Administrative Offices  
800 East Overland Street, Rm. 406  
El Paso, Texas 79901-2407  
(915) 546-2040  
(915) 546-8172 FAX

June 2, 2009

The Honorable Delia Briones  
County Clerk  
Room 105, County Courthouse Building  
500 East San Antonio  
El Paso, Texas 79901

Dear Ms. Briones:

It would be appreciated if you would place the following item on the agenda for the commissioners' court meeting to be conducted on Monday, June 8, 2009:

Readdress item # 7, motion # 6 to take the five year contract option for cost plan services with Maximus Consulting Services, Inc. which was approved for the Judge to sign on Monday June 1, 2009.

Your assistance with this agenda item will be appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward A. Dion".  
Edward A. Dion  
County Auditor

EAD:JU:rao

Attachments

cc: The Honorable Anthony Cobos, County Judge  
The Honorable Anna Perez, County Commissioner  
The Honorable Veronica Escobar, County Commissioner  
The Honorable Willie Gandara, County Commissioner  
The Honorable Daniel R. Haggerty, County Commissioner  
Mr. Jamie O. Perez, Chief of Staff  
Mrs. Lee Shapleigh, Assistant County Attorney



# COUNTY OF EL PASO

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800 EAST OVERLAND STREET, ROOM 406  
EL PASO, TEXAS 79901-2407  
(915) 546-2040  
(915) 546-8172 FAX

05-36

May 26, 2009

The Honorable Delia Briones  
County Clerk  
Room 105, County Courthouse Building  
500 East San Antonio  
El Paso, Texas 79901

Dear Mrs. Briones:

It would be appreciated if you would place the following item on the consent agenda for the commissioners court meeting to be conducted on Monday, June 1, 2009:

Approve and authorize the County Judge to sign contract for cost plan services with Maximus Consulting Services, Inc. Contract has been approved as to form by County Attorney KK-09-198.

Your assistance with this agenda item will be appreciated.

Very truly yours,

Edward A. Dion  
County Auditor

EAD:ya

Attachment

cc: The Honorable Anthony Cobos, County Judge  
The Honorable Veronica Escobar, County Commissioner  
The Honorable Daniel R. Haggerty, County Commissioner  
The Honorable Willie Gandara, County Commissioner  
The Honorable Anna Perez, County Commissioner  
Mrs. Lee Shapleigh, Assistant County Attorney

## James Utterback

**From:** Art Provenghi  
**Sent:** Tuesday, May 19, 2009 3:37 PM  
**To:** James Utterback  
**Subject:** Contract Review Form KK-09-198-Consulting for Cost Plan Services-Maximus Consulting Services, Inc.

# EL PASO COUNTY LEGAL REVIEW FORM

KK-09-198

Contract Description: Auditor-Consulting Contract for Cost Plan Services-Maximus Consulting Services Inc.

**COUNTY ATTORNEY ACTION\*\***

**\*\*Requested Amendments/Clarifications:** Please list any questions or comments you have regarding the terms of the contract, as well as any specific provisions to which you object, or which you want to have changed.

  X   Approved as to Form as Submitted  
       Approved as to Form with Amendments/Modifications/Reservations Noted Below\*  
       Not Approved

\*1)

This document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

**Art Provenghi**  
**Assistant County Attorney**  
**Date: May 19, 2009**

**AGREEMENT TO PROVIDE  
PROFESSIONAL CONSULTING SERVICES**

THIS AGREEMENT is entered into this sixth (6) day of May, 2009, by and between MAXIMUS Consulting Services, Inc., a wholly owned subsidiary of MAXIMUS, Inc. (hereinafter "Consultant"), and the County of El Paso, Texas (hereinafter "Client"). The parties hereto, in consideration of mutual promises and covenants, agree as follows:

(1) Scope of Services. Consultant shall perform in a professional manner the services as detailed in Exhibit A, incorporated herein by reference as if fully set forth as part of this Agreement.

(2) Term. This Agreement shall be in full force and effect for the term as stated in Exhibit A.

(3) Compensation. Client shall pay Consultant a fee for services rendered as set forth in Exhibit B, incorporated herein by reference as if fully set forth as part of this Agreement.

(4) Termination. Upon Consultant's material breach, Client may terminate this Agreement upon thirty (30) days prior written notice to Consultant wherein Client shall specify the nature of the default and the effective termination date. Upon such notice, Consultant shall be entitled to the opportunity to cure any such default prior to the effective date of termination.

Client may terminate this Agreement for any reason upon sixty (60) days prior written notice to Consultant. Client shall reimburse Consultant for all reasonable costs incurred by Consultant due to such early termination.

Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant in full for all goods and/or services provided to, and accepted by, Client under this Agreement, or any amendment thereto, as of the effective date of the Agreement. In no event shall the making of any payment to Consultant constitute or be construed as a waiver by Client or shall in no way impair or prejudice any right or remedy available to Client.

(5) Services and Materials to be Furnished by Client. Consultant shall provide guidance to Client in determining the data required. Consultant shall assume without incurring liability therefor that all data so provided is correct and complete. Consultant shall make its best effort to complete the project on a timely basis. Consultant shall not be liable for work that cannot be completed as a result of inadequate data, or data that is provided in an untimely manner.

(6) Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for six (6) years

after the completion of the Services. During such period, Client shall have the right to examine and audit the records and to make transcripts therefrom. Client shall provide thirty (30) days written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during Consultant's normal business hours. Any Client's employee, consultant, subcontractor or agent who may have access to such records shall execute a non-disclosure agreement prior to being granted such access.

(7) Copyright for Consultant's Proprietary Software. To the extent that the service and/or deliverables provided by Consultant are generated by Consultant's proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide such software to Client. Client agrees that all ownership, including copyright, patents or other intellectual property rights to the software, lie with Consultant. Nothing herein shall be construed to entitle Client to any pre-existing Contractor materials.

(8) Insurance. Consultant shall maintain appropriate general liability insurance, workers' compensation insurance, automobile insurance, and professional liability insurance.

(9) Indemnification. Consultant shall defend, indemnify and hold harmless Client from and against damages, liability and costs (including reasonable attorney fees) directly caused by the negligent actions or willful misconduct of Consultant, its employees or agents. Consultant shall not be responsible for any damages or liability resulting from the negligence or willful misconduct of Client, its employees, consultants, or agents or any third party.

(10) Limitation of Liability. Client agrees that Consultant's total liability to Client for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed two times the amount of each contractual year amount.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim by Client against Consultant relating to this Agreement must be made in writing and presented to Consultant within one (1) year after the date on which Consultant completes performance of the services specified in this Agreement.

(11) Consultant Liability if Audited. Consultant will assume all financial and statistical information provided to Consultant by Client employees or representatives is accurate and complete. Consultant shall, upon notice of audit, make work papers and other records available to the auditors.

(12) Notices. Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties in the United States mail, postage paid, to the address noted below:

Edward A. Dion, CPA, CIO  
County Auditor  
County Administrative Offices  
800 E. Overland, Room 406  
El Paso, Texas 79901  
Telephone: (915) 546-2040  
Fax: (915)  
546-8172  
edion@epcounty.com

Bruce Cowans, Sr. Vice President  
MAXIMUS Consulting Services, Inc.  
13601 Preston Road, Suite 201E  
Dallas, Texas 75240  
Telephone: (972) 490-9990  
Fax: (972) 490-3040  
brucecowans@maximus.com

Such notice shall be deemed delivered five (5) days after deposit in the U.S. mailbox.

(13) Changes. The terms of this Agreement may be changed via a mutually executed written instrument.

(14) Miscellaneous.

a. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

b. The parties intend that Consultant, in performing the services specified in this Agreement shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and Consultant's employees are not to be considered agents or employees of Client for any purpose

c. Should any part, term, portion, section or provision of this Agreement be decided finally to be in conflict with law or otherwise be unenforceable or ineffectual, the remaining parts, terms, portions, sections or provisions shall be deemed severable and shall remain in full force and effect.

d. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

e. This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

f. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.

g. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.

IN WITNESS WHEREOF, the Client and the Consultant have executed this Agreement as of the date first written below.

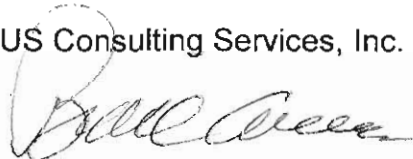
By: \_\_\_\_\_  
(Client Official)

Title: \_\_\_\_\_

ATTEST:

Date: \_\_\_\_\_

MAXIMUS Consulting Services, Inc.

By:   
Bruce Cowans

Date: May 14, 2009

## **EXHIBIT A**

### **Term and Scope of Services**

This Agreement shall become effective on May 1, 2009, and shall continue in full force and effect until April 30, 2010 unless extended by amendment or as indicated in Exhibit B.

The client reserves the exclusive option to extend the agreement for four additional one year periods after the completion of the first year of this agreement. The rates for the four option years are listed in Exhibit B – Multi-Year Option.

Consultant represents that it has, or will secure at its own expense, all personnel required in the performance of services under this Agreement. All of the services required hereunder will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified to perform the services described herein. Consultant shall commence, carry on, and complete the services with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with the provisions herein and all applicable laws.

***MAXIMUS will perform and carry out in a good and professional manner the following services:***

***Central Services Cost Allocation Plan (CAP), County Sheriff's Cost Allocation Plan (SCAP), and the County Sheriff's Booking Cost Plan (BCAP)***

The first phase involves development of the OMB Circular A-87 central services cost allocation plan that identify the general fund indirect costs incurred by the County to support and administer direct County departments. All of the cost allocation plans will be prepared in accordance with GAAP. The guidelines contained in 2 CFR Part 225 OMB (Circular A-87) and the DHHS ASMB C-10 guide will be used as the basis for determining allowable allocation methods and costs within the OMB Circular A-87 cost plan. The Plan will contain a determination of the allowable costs of providing each support service such as County administration and purchasing, facility management and utilities, data information services, disbursement processing, mail delivery, etc. The OMB Circular A-87 cost allocation plan will be based on actual costs for each fiscal year. MAXIMUS' Texas staff will provide weekly status reports to County staff as the project progresses.

The research and data required for the County Sheriff's cost of services cost plan for the County Jail (SCAP) and the Booking Processes(BCAP) will be determined and prepared simultaneously with the CAP to save staff time, travel costs, and reduce redundancy of effort. We will incorporate the indirect costs that were attributable to the County Sheriff and Jail operations from the CAP into both of the Sheriff cost allocation plans to provide a full cost of services provided to Jail per diem rate and the cost of booking prisoners.



The steps involved in completion of the Plan include, but are not limited to, the tasks as described below:

- Task 1: Determine available financial information. This task involves identifying the sources of financial information to be used for all three cost plans. At a minimum, the annual year-end expenditure reports for the affected central services departments, a County organization chart and chart of accounts are required. Additional financial reports and payroll summary reports issued by the County will be used if available and as necessary. Centrally budgeted indirect costs for County and employee insurance and other centrally paid general costs will be reviewed for possible inclusion in the central services cost allocation plan. Building use charges and appropriate equipment use charges will be calculated in accordance with federal (GASB and OMB Circular A-87) requirements and included in the pool of costs to be allocated. This task will be accomplished through a data request to County staff and through available documents posted to the Internet.

- Task 2: Classify all Department units and other costs. After reviewing the latest organizational charts, all cost centers/organizational units are reviewed to insure their proper classification as direct or indirect. This task is required to insure that only allowable activities are allocated and that all units or programs are properly recognized in the allocation procedures. We will look at the Sheriff's cost centers to determine where the administrative, jail operations, and booking costs are located for determination of the structure of their individual cost allocation plans. Departmental interviews will be set up to determine the activities, appropriate activity costs, and the performance measure for each activity for allocation to benefiting departments.

- Task 3: Review of Federal and State Grants, Proprietary Funds, and other potential cost recovery areas. This task will begin with a review of financial data such as the Comprehensive Annual Financial Report and the Budget Report researching potential cost recovery areas. As we conduct departmental interviews, we will inquire as to whether there is any federal, state, or intergovernmental funding for programs within the department. We will determine the agency administering the program and the extent of recovering administrative costs.

- Task 4: Document administrative departments, functions and costs. The task focuses on identifying those units with responsibility for providing services to other units within the Department. These are typically performing such services as accounting, auditing, personnel and purchasing, information systems support, etc. We will determine the best means for identifying the cost of central service activities and costs. Building use charges will be allocated based on actual square footage occupied. Equipment use charges will be based on the actual inventory balances by department. With the assistance of the County staff, we will conduct departmental interviews, review departmental contracts, and conduct other research as deemed necessary. We will conduct more in depth interviews with the County Sheriff's staff that are responsible for the Jail Operations and the booking of prisoners. It will be necessary to determine who performs each process in the booking of prisoners, and the time required in each process.

- Task 5: Prepare cost allocation schedules. For all administrative indirect units, a schedule will be prepared showing the expenditures of the central indirect departments during the fiscal year. Any disallowed expenditures under OMB Circular A-87 guidelines are eliminated, and equipment use charges are added. The resulting amounts are allowable indirect costs benefiting units and programs. All acquired data will be entered into the MAXIMUS proprietary cost analysis application. A summary schedule will be prepared that identifies a matrix of indirect costs allocated to all direct

County departments, and all supporting detail calculations and data will be included to provide documentation for the summary results.

The activities and costs of the jail and the booking cost centers will be analyzed and catalogued into their appropriate functions for each of their cost allocation plans. For the jail operations, we will determine all costs involved into the housing of prisoners by allocating the County-wide indirect costs for the Sheriff and Jail and the Sheriff's administrative and supporting staff to jail operations. This will provide a total cost of jail operations to be used in the determination of the prisoner per diem rate.

More in-depth analysis and interviews will be performed for the booking processes cost allocation plan. We will interview the Sheriff's staff to determine the processes that a prisoner and the Sheriff's staff will perform as the prisoner is brought into booking until the prisoner is bonded and released or ends up in the jail population. This will enable us to isolate and catalogue costs more accurately. A cost per prisoner will be calculated for each process and an overall total cost for the entire booking process. Mr. Brown worked with the County on the initial development of the booking process cost allocation plan.

- Task 6: Prepare drafts of the cost allocation plan reports and variance analysis. Draft reports of the OMB Circular A-87 plan, County Sheriff's cost allocation plan, and Booking Process cost allocation plan will be prepared and submitted to County staff for review. A variance analysis will be prepared for the Central Services CAP that will compare the departmental allocated costs for the current year versus the past year to assist in an explanation of increases/decreases in departmental. A Webex teleconference will be held with County staff to discuss the results of the project to determine any required changes. All material variances will be explained in order to answer all questions that may be submitted by departments to County staff. As requested and necessary, we will review the cost allocation plan with the representatives of the County. All edits will be made and a second draft will be prepared for review via Webex teleconference.

- Task 7: Prepare formal reports. Once all edits are complete, a reconciliation of the financial data will be prepared and the final cost allocation plan will be prepared with narratives to comply with 2 CFR, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87) guidelines.

***Indirect Cost Rate Proposal for the Federal/State Programs and other Departmental Rates as needed***

The second phase involves preparation of the Indirect Cost Rate Proposal and submission of material for DSHS and other agency review. Recently, Texas DSHS has been requesting copies of the OMB Circular A-87 indirect cost allocation plans for review and negotiation. We will finalize the indirect rate proposal for presentation to the County, DSHS, and any other requesting Federal/State agencies. The plan will be finalized in the format required for presentation to the Federal/State agencies.

The required documents for the federal and state program indirect rates include:

- Required A-87 Certification
- Description of services provided and method of allocation
- Summary of department's indirect costs

## Agreement between El Paso County, Texas and MAXIMUS Consulting Services, Inc.

- Summary of the direct personnel services “base” in Health, and other County staff requested departments to be used in the calculation of the indirect rates.
- Proposed indirect rates for Health, and other management requested departments to be used in the calculation of the indirect rate.

### ***Exit Interview***

Once all final reports for the County are prepared, MAXIMUS staff will meet with County staff and review the cost allocation plans and any findings discovered during the preparation of the cost allocation plans. During the interviews and preparation of the cost allocation plans, MAXIMUS will encounter findings that may benefit the County in its day to day operations or present an opportunity to the County that we have encountered in other counties where we have prepared other studies. MAXIMUS prepares studies throughout the nation, and our other consultants are available to provide professional insights that can benefit other counties.

### ***Review and Negotiation of Plan and Proposal***

MAXIMUS is prepared to negotiate the indirect cost rate proposal with Texas DSHS (TDSHS), and/or any other Federal/State and local agencies. We are capable of negotiating the County Sheriff's Prisoner Per Diem Rate with the US Marshall's Office. We have been successful in negotiations with the TDSHS, HUD, EPA, US Marshall's Office, USDHHS, and other cognizant agencies. We will assist the County in all aspects of the negotiation process and respond to questions and requests for additional information from all Federal/State and local agencies. During this process we will keep you informed and seek to secure the fairest possible agreement.

### ***Schedule of Indirect Cost Rates for Other Departments***

We will prepare a schedule of indirect cost rates for other direct departments that have grants or provide services to other departments and governments and a Schedule of other Intergovernmental Indirect Cost Rates. This schedule of rates may be helpful if other departments have grants that are allowed to claim indirect costs or provide services to other departments.

The final work product schedules will include:

- Summary of allocated indirect costs for each department
- Personnel Services Base
- Proposed indirect rates for each department

Consultant shall defend Client under audit for a period of three (3) years without cost to the Client.

**EXHIBIT B**  
**Compensation**

For services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of fifteen thousand five hundred dollars (\$15,500).

Payment of the standard fee which shall include reimbursement for expenses incurred shall be made in one installment due upon delivery of the final plan. Invoices shall provide detail sufficient to Client's requirements.

Payment of the standard fee which shall include reimbursement for expenses incurred shall be made in installments: Per Fiscal Year, Consultant will render to Client one invoice upon delivery of the final plan for one-half (1/2) of the agreed-upon amount stated in Exhibit A. At its sole discretion, Consultant may chose to invoice Client a lesser amount if, in Consultant's estimation, Client's total recovery will be less than the amount needed to satisfy Consultant's fees. Thereafter, Client and Consultant shall share recoveries equally until the amount stated in Exhibit A is paid in full. Should Client recover from the plan an amount less than the amount needed to satisfy Consultant's fees, no further payment shall be due Consultant. Invoices shall provide detail sufficient to Client's requirements.

Consultant will render to Client one or more invoices for the fees specified herein, with payment due by thirty (30) days after the due date.

**Multi-Year Option**

Client may elect to secure a two-year or three-year fixed fee contract under the same terms and conditions as stated in this Agreement at a secured rate as follows:

Fiscal Year 2009 - 2011	\$ 15,965
Fiscal Year 2010 - 2012	\$ 16,440
Fiscal Year 2011 - 2013	\$ 16,940
Fiscal Year 2012 - 2014	\$ 17,445

***Please check and initial here your choice for a two-year contract:***

Yes for two-year option  
\_\_\_\_\_ (initials)

***Please check and initial here your choice for a three-year contract:***

Yes for three-year option  
\_\_\_\_\_ (initials)

***Please check and initial here your choice for a four-year contract:***

Yes for four-year option  
\_\_\_\_\_ (initials)

***Please check and initial here your choice for a five-year contract:***

Yes for five-year option  
\_\_\_\_\_ (initials)

The services and associated compensation covered under this agreement may be modified through a written amendment, approved and executed by both parties. For additional services, the inclusive hourly rates by resource category are as follows:

Senior Project Manager	-	\$176/hr
Project Manager		\$154/hr
Consultant/Analyst		\$ 76/hr