

MEMORANDUM

BRADFORD R. FENOCCHIO

DISTRICT ATTORNEY

County of Placer

TO: The Honorable Board of Supervisors

FROM: Bradford R. Fenocchio, District Attorney

*HO For
BRF.*

DATE: August 24, 2010

SUBJECT: **A)** Recommendation to approve three agreements with the California Department of Justice for 1) forensic alcohol testing, 2) toxicological drug and 3) solid dosage analysis for the period of October 1, 2010 through September 30, 2011 in a combined amount of \$250,000. Authorize the District Attorney and the Purchasing Manager, upon review and approval by Risk Management and County Counsel, to execute documents required.

B) Approve a Blanket Purchase Order with Valley Toxicology to provide phlebotomy services, preliminary alcohol screening device maintenance, forensic alcohol, toxicological, and solid dosage analysis services for the period of August 1, 2010 through July 31, 2011 in the amount of \$390,000. Authorize the District Attorney and the Purchasing Manager, upon review and approval by Risk Management and County Counsel, to execute documents required.

ACTION REQUESTED

Recommendation to approve three agreements with the California Department of Justice for 1) forensic alcohol testing, 2) toxicological drug and 3) solid dosage analysis for the period of October 1, 2010 through September 30, 2011 in a combined amount of \$250,000. Authorize the District Attorney and the Purchasing Manager, upon review and approval by Risk Management and County Counsel, to execute documents required.

Approve a Blanket Purchase Order with Valley Toxicology to provide phlebotomy services, preliminary alcohol screening device maintenance, forensic alcohol, toxicological, and solid dosage analysis services for the period of August 1, 2010 through July 31, 2011 in the amount of \$390,000. Authorize the District Attorney and the Purchasing Manager, upon review and approval by Risk Management and County Counsel, to execute documents required.

BACKGROUND

In FY 2009/10 Placer County prosecuted 1,946 DUI and DUI-related cases.

Vehicle Code Section 23612 provides that persons who drive a motor vehicle are deemed to have given consent to chemical testing of his or her breath or blood to determine blood alcohol, when that person has been arrested for a DUI or DUI-related crime.

The chemical testing done in order to determine a suspect's blood alcohol can be accomplished by either (1) an evidential breath tester (EBT) or (2) a chemical test of the suspect's blood, or (3) both. The testing regarding blood alcohol is referred to as blood alcohol analysis. The EBTs must be calibrated and maintained on a regular basis in order to utilize the breath test results in court.

Additionally, chemical testing of a suspect's blood is done in certain cases to determine whether that DUI suspect was impaired by drugs other than alcohol. The testing regarding drug-induced impairment is referred to as toxicological drug analysis, or toxicology. Phlebotomy services are the drawing and handling of blood used in these tests.

The blood alcohol evidence obtained is then used in the prosecution of those persons who have committed a DUI or DUI-related crime.

In FY 2009/10, Placer County prosecuted 276 violations of Health and Safety Code 11550 in which cases there was not also a DUI or DUI-related charge. These cases involve chemical testing of the suspect's blood.

In FY 2009/10, Placer County prosecuted 489 cases involving the illegal possession or possession for sale of controlled substances. The majority of these cases involve the possession or possession for sale of methamphetamine. The chemical testing done in these cases is referred to as solid dosage analysis.

In all of the cases referred to above, it is necessary that the prosecution present expert testimony regarding the test results. DOJ will provide expert testimony for all services provided.

Valley Toxicology has provided excellent phlebotomy and drug and alcohol testing services for the District Attorney for a number of years, with the current contract expiring on July 31, 2010. To test the competitive environment as requested by the District Attorney's Office, Procurement issued Invitation for Bids (IFB) No. 9988 for a replacement phlebotomy and alcohol and drug testing contract. Only two bids were received, one from Valley Toxicology and one from American Forensic Nurses, Inc. of Palm Springs, CA. Neither bid was responsive to the requirements of the IFB, and therefore an award could not be made.

The Purchasing Policy Manual, Section 1.3(e) (1) allows the County to purchase services from another government agency without competition. The IFB could not be awarded; the District Attorney has negotiated a Memorandum of Understanding and two related agreements with the California Department of Justice (DOJ) to provide forensic alcohol testing services, toxicological drug analysis services and analysis of solid dosage drug samples. These agreements will meet the majority of the District Attorney's requirements at a very affordable price.

In addition to DOJ's role, two other services are required: phlebotomy services and maintenance of existing preliminary alcohol screening (PAS) devices. Since Valley Toxicology has performed these services very professionally for a number of years, the District Attorney and Administrative Services successfully negotiated, at very competitive prices, the terms and conditions of a one-year Blanket Purchase Order with possible renewals for these services from Valley Toxicology. Additionally, Valley Toxicology will provide expert witness testimony supporting their services at no additional cost. Upon your Board's approval, the Purchasing Manager will award a BPO to Valley Toxicology to provide phlebotomy services, preliminary alcohol screening device maintenance, and, during the transition from Valley Toxicology to the DOJ, Valley Toxicology will provide forensic alcohol services, toxicological services, and solid dosage analysis in the maximum amount of \$390,000, for the period of August 1, 2010 through July 31, 2011 in the maximum amount of \$390,000.

FISCAL IMPACT

The routine cost of forensic, toxicology, and solid dosage services is included in the department's budget each year. For FY 2010-11, the department's budget has been increased to include an additional \$309,620 to cover the cost of transition services, for one year, with Valley Toxicology. This is a one-time cost, which will be evaluated for further adjustment during the budget process in future years.

Attachment: MOU For analysis of Solid Dosage Drug Samples
Exhibit A-10-102-01
Exhibit A10-TOX-180

