



Board Agenda Item 27

DATE: December 10, 2019

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney

SUBJECT: Agreement with Department of Justice for Alcohol Analysis

RECOMMENDED ACTION(S):

1. **Make a finding that it is in the best interest of the County to suspend the competitive bid process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances as the California Department of Justice is a State agency and provides alcohol analysis services at a reduced rate; and**
2. **Approve and authorize the Chairman to execute Agreement with the California Department of Justice for alcohol analysis services, effective January 1, 2020 through December 31, 2029, total not to exceed \$1,200,000.**

There is no additional Net County Cost associated with these actions. When the California Highway Patrol (CHP) makes an arrest for suspicion of Driving Under the Influence (DUI), testing is performed by the Department of Justice (DOJ). The County is required to pay for CHP testing if the arrest takes place in an unincorporated area of Fresno County. The DOJ provides alcohol analysis services to law enforcement at a reduced rate, and testimony is provided free of charge. The DOJ has provided these services to the County in a cost-effective manner since 1979. For these reasons, the District Attorney's Office is requesting a waiver of the competitive bidding process and recommending a ten-year agreement with a maximum of \$120,000 annually.

ALTERNATIVE ACTION(S):

If the agreement is not executed, the District Attorney's Office will not have access to alcohol analysis services at a reduced rate.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The request to suspend the competitive bidding process consistent with Administrative Policy No. 34, results from the fact that the DOJ is a State agency that provides alcohol analysis services to law enforcement agencies at a reduced rate and provides testimony free of charge. The Internal Services Department - Purchasing concurs with the Department's recommendation.

FISCAL IMPACT:

There is no increase in Net County Cost associated with these actions. The cost for this service is partially offset by revenues from the Drug and Alcohol Fund 2025 Subclass 30340, which reimburses (to the extent funds are available) all law enforcement agencies in the County for providing this service. Appropriations in the amount of \$120,000 are included for this service in the District Attorney Organization 2860 FY 2019-20 Adopted Budget. Appropriations for future years will be included in the District Attorney's subsequent budget

requests.

DISCUSSION:

When the CHP makes an arrest for suspicion of DUI, testing is performed by DOJ. The County is required to pay for CHP testing if the arrest takes place in an unincorporated area of Fresno County. Arrests made by the CHP in an incorporated area are considered by the Attorney General to be the liability of the City in which the arrest occurs.

The services by DOJ include laboratory analysis of blood and urine samples; containers; envelopes and mailers; administrative and logistical support of field breath alcohol tests utilizing the intoxilyzer; providing and maintaining intoxilyzer breath analysis performed; training of certified intoxilyzer operators; and providing expert testimony when requested, and appropriate.

On January 10, 2012, the Board approved a continuous agreement with DOJ for alcohol analysis services until terminated by either party. The current standard length for a County vendor contract is five years: a three-year base contract with the option of two additional one-year extensions. Therefore, as recommended by ISD - Purchasing, the Department is returning to your Board with a new agreement. However, for the recommended agreement with the DOJ, the District Attorney is requesting a ten-year contract for blood alcohol testing. The laboratories of the Bureau of Forensic Services, DOJ, have provided Fresno County with alcohol level analysis services since 1979. The annual contract maximum has not exceeded \$120,000 for the last several years, and is not expected to exceed this amount in subsequent years. Approval of a longer contract period will allow uninterrupted payment at a reduced rate for this service which the County is required to pay.

Under the terms of the recommended agreement, the contract will continue unless terminated by either party with a 30-day written notice.

REFERENCE MATERIAL:

BAI# 24, January 10, 2012

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with DOJ
Suspension of Competition Acquisition Request

CAO ANALYST:

Jeannie Z. Figueroa