

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

560



FROM: Stanley L. Sniff Jr., Sheriff-Coroner-PA

SUBMITTAL DATE:
03/29/10

SUBJECT: Approval of a Sole Source Award to the San Diego County Medical Examiner's Office to Provide Neuropathological Services for the Sheriff's Coroner's Office

RECOMMENDED MOTION: Move that the Board of Supervisors:

- 1) Approve and authorize the Chairperson to execute a professional service agreement for Neuropathology services with the San Diego County Medical Examiner's Office in the annual amount of \$60,000, without obtaining competitive bids in accordance with Ordinance 459.4, and;
- 2) Authorize the Purchasing Agent to renew the contract annually in one year increments for up to four (4) additional years, provided the cost does not exceed the contract amounts.

BACKGROUND: The County's Chief Forensic Pathologist, Dr. Joseph Cohen, must utilize a number of Doctors for specialized postmortem services. He requires the services of a Neuropathologist to conduct macroscopic examinations of the brain, spinal cord and eyes.
(Continued on Page 2)

BR 10-086

Will Taylor
Stanley L. Sniff Jr. Sheriff-Coroner-PA
Will Taylor, Director of Administration

FINANCIAL DATA	Current F.Y. Total Cost:	\$40,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$40,000	Budget Adjustment:	No
	Annual Net County Cost:	\$60,000	For Fiscal Year:	FY 2009-10

SOURCE OF FUNDS: Departmental Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
Robert Tremaine
BY: Robert Tremaine

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: April 20, 2010
xc: Sheriff, Purchasing

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: 10/20/09 3.59 | District: All | Agenda Number:

3.63

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL BY: NEAL R. KIPNIS DATE: *4/1/10* Purchasing: *Billy Cornett* Departmental Concurrence

Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BOARD OF SUPERVISORS

FORM 11: Approval of Sole Source Award to the San Diego County Medical Examiner's Office BR 10-086

Page 2

Board Certified Forensic Neuropathologists, who possess an expertise in examining traumatic brain injuries as an ancillary support to autopsies, are difficult to locate and often unable to handle the workload generated by Riverside County. Due to the scarcity of Board certified Forensic Neuropathologists, the Sheriff's Department felt it necessary to continue an Agreement with a Neuropathologist, Dr. Erlich, even after she had moved to Wyoming, and was only able to consult on our cases once a month. Unfortunately, a few months ago, Dr Erlich notified the Sheriff's Department that she was terminating her Agreement.

An exhaustive search throughout Southern California for a board certified forensic neuropathologist revealed that the Los Angeles County Coroner's Office is scarcely able to meet their own needs in forensic neuropathology, and does not have a forensic neuropathologist interested in contracting to perform outside cases. Orange County does not have a forensic neuropathologist, and is actively seeking one. San Bernardino's Chief Forensic Pathologist is certified in neuropathology, but occasionally takes free lance cases as a defense witness in Riverside County; so that may pose a direct conflict of interest with the Riverside County Sheriff-Coroner. No private contractors were located.

The Sheriff's Department has now negotiated an Agreement with the San Diego County Medical Examiner's Office to analyze our cases, contingent on our staff preparing the cases and transporting them to the Medical Examiner's office.

Price Reasonableness

In contrast, to Dr. Erlich's fixed fee of \$580 per case, the San Diego County Medical Examiner is proposing a three tier fee schedule that starts at \$500 for cases requiring minimal record review to \$1,000 for cases which present complex traumatic injury or child abuse cases with cranial and/or intracranial injury.

In 2007, when the Board approved Dr. Erlich's now-terminated contract (07/31/07 3.100), Dr. Cohen estimated that the consulting fee for Neuropathologists ranged from \$500 to \$1,000 per case.

Date: March 9, 2010
From: Stanley Sniff, Sheriff-Coroner Department/Agency: Sheriff-Coroner
To: Board of Supervisors
Via: Purchasing Agent
Subject: Request for a Sole Source Procurement of Neuropathology Services

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

Supply/Service being requested: Neuropathology Examinations

Supplier being requested: San Diego County Medical Examiner

Alternative suppliers that can or might be able to provide supply/service: None

Extent of market search conducted: An exhaustive search throughout Southern California for a board certified forensic neuropathologist revealed that the Los Angeles County Coroner's Office is scarcely able to meet their own needs in forensic neuropathology, and does not have a forensic neuropathologist interested in contracting to perform outside cases. Orange County does not have a forensic neuropathologist and is actively seeking one. San Bernardino's Chief Forensic Pathologist is certified in neuropathology, but occasionally takes free lance cases as a defense witness in Riverside County; so that may pose a direct conflict of interest with the Riverside County Sheriff-Coroner. No private contractors were located.

Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide: Board Certified Forensic Neuropathologists, who possess an expertise in examining traumatic brain injuries as an ancillary support to autopsies, are difficult to locate and often unable to handle the workload generated by Riverside County.

Reasons why my department requires these unique features and what benefit will accrue to the county: Neuropathology is a critical component to certain death investigations.

Price Reasonableness: The prior contractor (Dr. Erlich), who moved out of state, charged \$580 per case. The proposed contract contains a fee schedule, charging \$500, \$750, or \$1000 per case depending on the type of case and amount of examination time needed – as indicated. This fee schedule is reasonable as it allows the contractor, San Diego County Medical Examiner, to recover actual costs rather than charge one fee for all cases.

In 2007, when the Board approved Dr. Erlich's now-terminated contract (07/31/07 3.100), Dr. Cohen estimated that the consulting fee for Neuropathologists ranged from \$500 to \$1,000 per case.

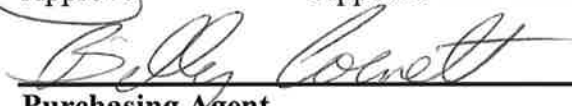
Does moving forward on this product or service further obligate the county to future similar contractual arrangements? No.



Department Head Signature **Date** 4/8/10

Purchasing Department Comments:

Approve Approve with Condition/s Disapprove



Purchasing Agent **Date** 4/8/10

**NEUROPATHOLOGY SERVICES AGREEMENT
RIVERSIDE COUNTY SHERIFF'S DEPARTMENT – CORONER'S BUREAU
AND
COUNTY OF SAN DIEGO – MEDICAL EXAMINER'S OFFICE**

This Neuropathology Agreement ("the Agreement") is made and entered into effective as of May 1, 2010 (the "Effective Date") by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the Riverside County Sheriff's Department – Coroner's Bureau, hereinafter referred to as "RCSCB" and the County of San Diego – Medical Examiner's Office, hereinafter referred to as "CSDMEO." RCSCB and CSDMEO are also hereinafter referred to individually as "Party" or collectively as "Parties."

Whereas, CSDMEO provides forensic pathology services for the County of San Diego;

Whereas, CSDMEO provides neuropathological analysis as part of its forensic pathology services;

Whereas, RCSCB provides forensic pathology services for the County of Riverside;

Whereas, RCSCB desires to engage CSDMEO, upon the terms and conditions set forth herein, to provide neuropathological analysis on certain cases within RCSCB's jurisdiction when RCSCB cannot provide such service internally;

Whereas, CSDMEO, upon the terms and conditions set forth herein, is willing to provide neuropathological analysis services to RCSCB; and

Whereas, the Parties desire to set forth in this Agreement the terms and conditions under which CSDMEO will provide neuropathological analysis services to RCSCB and specify the responsibilities of each of the Parties in connection with this Agreement,

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Background**

Forensic pathologists, death investigators and death investigation systems recognize the importance of the medical discipline of neuropathology (study of the pathology of the brain, its coverings, spinal cord and eyes) during the course of forensic death investigations. It is well known that there is a paucity of available, well-trained, practicing forensic neuropathologists in the country, especially in our region. Neuropathology expertise is a necessary ingredient for the satisfactory work up of many death investigations. Death investigation systems have grown accustomed to the difficulties in securing this form of ancillary support.

2. Responsibilities of RCSCB

Specimens

Background: Satisfactory formalin fixation requires the proper volume and concentration of formalin, and adequate time of fixation (at least two weeks).

The following steps will be performed by the RCSCB to ensure that specimens are sufficiently prepared for examination by the consulting neuropathologist, and to assist in securing their proper identities:

A. At autopsy, the brain and dura (and spinal cord, if appropriate) shall be placed in a properly labeled, formalin filled container, supervised by pathologist. Brains shall be suspended in formalin by use of string threaded under the basilar artery, or alternatively, by use of the salt floating method. If applicable, eyes removed for examination shall be placed into separate, properly labeled (left and right), formalin filled containers. Eyes will not be transported to the CSDMEO for examination.

B. An identifying decedent label shall be placed onto the container(s) with the specimen(s).

C. For excessively bloody specimens, within two days of the autopsy, the designated coroner technician shall discard the old formalin from each specimen, and replace with fresh formalin (formalin change will improve the penetrating power of the fixative). The formalin change procedure shall be performed one specimen at a time to avoid labeling problems, identity mishaps, and loss or misplacement of specimens or portions of specimens (e.g., dura, blood clots, spinal cord).

D. The specimen shall remain in formalin fixative for a minimum of two weeks.

E. Transportation of specimens to and from the CSDMEO will be the sole responsibility of the RCSCB. RCSCB shall deliver formalin fixed specimens for neuropathological analysis to the CSDMEO, located at 5570 Overland Drive, Suite 101, San Diego, California, 92123. RCSCB shall also retrieve specimens from CSDMEO after the neuropathological analysis has been conducted. RCSCB shall ensure delivery of specimens submerged in formalin after a minimum of two weeks of formalin fixation.

F. Formalin fixed specimens will be transported to and from the CSDMEO on designated days each month, days to be mutually agreed to by CSDMEO and RCSCB. CSDMEO will be responsible for rinsing the specimens prior to examination.

Clinical history

RCSCB will provide an itemized list of specimens contained within each shipment to CSDMEO. The itemized list will include, at a minimum, the decedents' names, RCSCB file numbers, dates of autopsy, brief summaries of the death and autopsy investigations, and specific concerns or considerations to be addressed by the consulting neuropathologist. The forensic pathologist of record shall enter case information on the

Neuropathology Consultation Form for each case retained for formal neuropathology consultation. In the "history" section, the pathologist shall include a brief clinical history and reason for the consultation request, including any special concerns or considerations.

RCSCB will also provide copies of specifically requested available medical records when requested to do so by CSDMEO or by the RCSCB case pathologist.

Histology

RCSCB will contract with an entity other than CSDEMO for histology related to the specimens provided to CSDMEO for neuropathological analysis and will arrange for transport of the tissues selected for microscopic examination to the laboratory for processing into histology slides. RCSCB shall arrange for delivery of histology slides to CSDMEO for analysis. When needed, special stains will be requested by CSDMEO in consultation with the RCSCB case pathologist. RCSCB shall also retrieve glass slides from CSDMEO after the histological analysis has been conducted.

3. Responsibilities of CSDMEO

Neuropathology

CSDMEO shall perform a neuropathological examination on all specimens provided by RCSCB under the terms and conditions of this agreement. CSDMEO will notify RCSCB when tissues selected for microscopic examination have been prepared and are ready for transport to the histology laboratory for processing into histology slides and when specimens are available for retrieval.

Histology

Processing and transportation of tissues (blocks and slides) for microscopic (histological) examination by the CSDMEO will be the sole responsibility of RCSCB. The costs of such will be covered by the RCSCB. All routine histological stains, special stains (e.g., tau, alpha B-peptide, Bielchowsky silver stain) and other necessary ancillary tests will be coordinated by, and paid by RCSCB. CSDMEO shall analyze all histology slides provided by RCSCB. CSDMEO will notify RCSCB when histology slides are available for retrieval.

Transcription

CSDMEO shall transcribe the finding of each specimen provided by RCSCB.

Supplies

CSDMEO shall provide for or arrange for all necessary supplies used at the CSDMEO for preparation and examination of specimens provided by RCSCB.

Examination Report

The CSDMEO will provide a written consultation report for each specimen to include the gross/macrosopic examination and, if appropriate, a microscopic examination. Each consultation report will include an itemized list of final neuropathological diagnoses. A

completed, signed written consultation report for each specimen will be issued to RCSCB within six (6) weeks of submission of the specimen to the CSDMEO. In the event that ancillary tests (e.g., special stains) are necessary for completion of the written report, the report will be issued to RCSCB within two (2) weeks of receipt of the processed test material (e.g., microscopic slides) or test results if they are received beyond four (4) weeks after the initial specimen.

4. **Price and Payment**

All services performed by CSDMEO will be billed by CSDEMO to RCSCB at the rates listed on Exhibit "A." CSDMEO reserves the right to modify this fee schedule with 30 days notice to RCSCB. The total amount of compensation shall not exceed the sum of \$60,000 per fiscal year.

CSDMEO will invoice RCSCB on a monthly basis for services rendered under the terms and conditions of this contract.

Each invoice provided by CSDMEO shall contain a) subject's name and RCSCB case number b) date of service; and c) tier of service performed per Exhibit A.

Invoices shall be sent to:

County of Riverside

Attn: Captain Dave Nordstrom

Address 800 S. Redlands Ave.

City, CA Zip Perris, CA 92570

5. **Defense and Indemnity**

a. Claims Arising From Sole Acts or Omissions of San Diego

The County of San Diego (San Diego) hereby agrees to defend and indemnify the County of Riverside (Riverside), its agents, officers and employees, from any claim, action or proceeding against Riverside, arising solely out of the acts or omissions of San Diego in the performance of this Agreement. At its sole discretion, Riverside may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve San Diego of any obligation imposed by this Agreement. Riverside shall notify San Diego promptly of any claim, action or proceeding and cooperate fully in the defense.

b. Claims Arising From Sole Acts or Omissions of Riverside

Riverside hereby agrees to defend and indemnify the San Diego, its agents, officers and employees from any claim, action or proceeding against San Diego, arising solely out of the acts or omissions of Riverside County in the performance of this Agreement. At its sole discretion, San Diego may participate at its own expense in the defense of any

such claim, action or proceeding, but such participation shall not relieve Riverside of any obligation imposed by this Agreement. San Diego shall notify Riverside promptly of any claim, action or proceeding and cooperate fully in the defense.

c. Claims Arising From Concurrent Acts or Omissions

San Diego hereby agrees to defend itself, and Riverside hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of San Diego and Riverside. In such cases, San Diego and Riverside agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph e below.

d. Joint Defense

Notwithstanding paragraph c above, in cases where San Diego and Riverside agree in writing to a joint defense, San Diego and Riverside may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of Riverside and San Diego. Joint defense counsel shall be selected by mutual agreement of San Diego and Riverside. San Diego and Riverside agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph e below. San Diego and Riverside further agree that neither party may bind the other to a settlement agreement without the written consent of both San Diego and Riverside.

e. Reimbursement and/or Reallocation

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, San Diego and Riverside may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

6. **Term**

The term of this Agreement shall commence on the Effective Date and shall continue for a period of five (5) years thereafter, unless sooner terminated pursuant to the terms of this Agreement.

Any amendment to this Agreement must be in writing and signed by both Parties.

7. **Notices**

Any notices required or desired to be served by either party upon the other shall be addressed to the respective parties as set forth below and shall be deemed received upon personal service, fax receipt, or 72 hours after deposit in the U.S. mail, 1st class, postage paid:

County of Riverside:
Riverside County Sheriff's Department
Captain Dave Nordstrom
800 S. Redlands Ave.
Perris, CA 92570

County of San Diego:
Dr. Glen N. Wagner
Chief Medical Examiner
5570 Overland Ave., Suite 101
San Diego, CA 92123

8. **Termination**

Either Party may terminate this Agreement, without cause or penalty, upon 60 days written notice to the other Party. Termination will commence upon receipt of the letter from the requesting Party. If this Agreement is terminated prior to the term of the Agreement, all outstanding charges shall be paid to CSDMEO in accordance with Section 4.

9. **Confidentiality Provisions**

The Parties recognize and acknowledge that, by virtue of entering into this Agreement, the Parties may have access to certain information of each other that is confidential and constitutes valuable, special, and unique property to each respective Party. The Parties agree that neither RCSCB or CSDMEO will at any time, either during or subsequent to the term of this Agreement, unless subject to state or federal law, disclose to others, use, copy, or permit to be copied, without the expressed prior written consent of each other, any confidential information of the other Party.

IN WITNESS WHEREOF, the Parties agree that the Effective Date of this Agreement is the day and year first written above.

COUNTY OF RIVERSIDE

Dated: APR 20 2010

By: Marion Ashley
Marion Ashley, Chair
Riverside County Board of Supervisors

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: Kecia Harper-Ihem
Deputy

COUNTY OF SAN DIEGO

Dated: 4.7.10

By: Thomas J. Pastuszka
Thomas J. Pastuszka
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

By: Paul H. Wicks
SENIOR DEPUTY

FORM APPROVED COUNTY COUNSEL
BY: Neal R. Kipnis
DATE: 4/12/10

APR 20 2010 3:03

EXHIBIT "A"
FEE SCHEDULE

Tier Category	Cost per case
Tier 1	\$1,000.00
Tier 2	\$750.00
Tier 3	\$500.00

Definitions

Fee Schedule (Three Tier System):

The following fee schedule includes examples that demonstrate the scope of formal neuropathological examination:

High intensity examinations "Tier 1" cases:

Comprehensive medical record review
Complex traumatic injury
Child abuse with cranial and/or intracranial injury

Medium intensity examinations "Tier 2" cases:

Moderate medical record review
Alzheimer's disease work up
Workup of natural neurological disease process (e.g., multiple sclerosis)
Subdural hematoma due to known or suspected mechanism of injury
Examination of brain and spinal cord

Low intensity examinations "Tier 3" cases:

Minimal record review
Apparent natural deaths (e.g., absence of traumatic injury at autopsy, "rule out" trauma)
Sudden unexplained infant deaths (atraumatic)
Intracranial hemorrhage of apparent natural etiology (e.g., ruptured "berry" aneurysm, hypertensive hemorrhage, ischemic cerebral infarct, intracerebellar hematoma)