



CITY OF OAKLAND

# AGENDA REPORT


**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Susan E. Manheimer  
Interim Chief of Police

**SUBJECT:** OPD Crime Lab Supplies  
Procurement

**DATE:** June 08, 2020

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City Administrator Approval   
Approval

Date Jul 21, 2020

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Waiving The City's Advertising And Competitive Bidding Procedure, And Waiving The Request For Proposals/Qualifications Requirements (RFP/Q) For The Purchase Of Certified And Accredited Forensic Laboratory Analytical Supplies, Equipment, Instrumentation, Software, And Related Services On An As-Needed Basis When Crime Laboratory Subject Matter Experts Determine Such Supplies And / Or Services Are Required By Forensic Casework Conditions, The Laboratory's Validated Methods, Or Its Quality Assurance Program, Or Needed For The Timely Analysis Of Evidence, Or When The Materials Or Services Are Available From Only One Source In The Amount Of Up To Six Hundred Thousand Dollars (\$600,000) Per Fiscal Year Through June 30, 2025, For A Total Cost Not To Exceed Three Million Dollars (\$3,000,000).**

## **EXECUTIVE SUMMARY**

The Oakland Police Department (OPD) requests the approval of a resolution waiving the City's advertising and competitive bidding requirements for the purchase of analytical supplies, instrumentation, equipment, quality assurance supplies, and related services, totaling no more than \$600,000 per year, for five years. These items are consistently needed by OPD's forensic crime laboratory (Crime Laboratory) for drug analysis, firearms analysis, latent print processing, body fluid identification, DNA analysis, crime scene response, and quality assurance processes. Funding for these purchases will come from OPD's General Purpose Fund Budget as well as from multiple grant (state and federal) sources - no additional general funding sources are requested.

## **BACKGROUND AND LEGISLATIVE HISTORY**

OPD's Criminalistics Division, which operates the Crime Laboratory, is responsible for the scientific evaluation, analysis and interpretation of physical evidence. The Criminalistics Division also responds to select crime scenes requiring specialized forensic knowledge and skills of the Criminalistics staff. The Crime Laboratory is accredited to International Organization for

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Standardization / International Electrotechnical Commission (ISO/IEC) 17025:2017 standards<sup>1</sup> by the ANSI National Accreditation Board (ANAB). Accreditation is required to maintain eligibility for federal grants pertaining to forensic science and for access to federal databases, such as the Combined DNA Index System (CODIS) which enables OPD to identify unknown individuals through DNA associations and the National Integrated Ballistic Information Network (NIBIN), which searches fired firearms cartridge cases to identify firearms used in crimes. ANAB is one of two organizations in the United States that accredits forensic science laboratories. The Crime Laboratory must meet numerous ANAB requirements, including full reassessments every four years, annual surveillance visits, annual external proficiency testing by ISO approved providers, and regular equipment and instrument maintenance and calibrations conducted by approved, suitable (*i.e.*, properly certified) providers. ISO 17025 standards require an evaluation of suppliers of materials and services and the ability of the crime laboratory to select appropriate suppliers for materials and services.

The Crime Laboratory constantly needs various forensic supplies, software, and services for use in drug analysis, firearms analysis, latent print analysis, body fluid screening, DNA analysis, crime scene response, and quality assurance processes (see page Table 1, on page 5, for more details). The Crime Laboratory requires access to several large forensic supply companies to acquire these supplies, which are used daily. These suppliers include, but are not limited to VWR, Fisher Scientific, and USA Scientific. These companies frequently offer discounted government pricing for public agencies such as OPD. The Crime Laboratory often orders 20 or 30 different items on one order from one supply vendor.

Oakland Municipal Code (OMC) Section 2.04.05 requires an advertising and competitive bidding and Requests for Proposals / Qualifications (RFP/Q) process for related supplies and services. Therefore, in the absence of this Resolution, the Crime Laboratory must comply with the advertising and bidding process for each item needed. The Crime Laboratory cannot place one order with one forensic supply company when it needs to bid each item supplied by a specific forensic supply company. Additionally, the Crime Laboratory is faced with many more purchase orders and invoices when it must separately bid each needed supply. This multiple-purchase order process is conducted by scientific and supervisory staff, removing these subject matter experts from otherwise performing supervision and casework and straining the Crime Laboratory's very limited administrative capacity.

The City Council has authorized several sole-source contracts for large Crime Laboratory purchases where specific supplies and services were needed to maintain accreditation with Resolution No. 86529 C.M.S., dated December 13, 2016, Resolution No. 85943 C.M.S., dated January 5, 2016, and Resolution No. 85899 C.M.S., dated November 17, 2015. Similarly, the City Council has authorized the waiving of advertising and competitive bidding under the acceptance of National Institute of Justice DNA Backlog and Capacity grant funds by Resolution No. 87996 C.M.S., dated January 21, 2020, Resolution No. 87428 C.M.S., dated September 27, 2018, Resolution No. 86982 C.M.S., dated November 2, 2017, Resolution No. 86532 C.M.S., dated November 22, 2016, Resolution No. 85223 C.M.S., dated October 21, 2014, Resolution No. 84686 C.M.S., dated November 5, 2013, Resolution No. 84041 C.M.S., dated October 2, 2012; Resolution No. 83672 C.M.S., dated December 15, 2011; Resolution No. 83030 C.M.S., dated October 19, 2010; Resolution No. 82291 C.M.S., dated September 22, 2009; Resolution

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<sup>1</sup> In most major countries, ISO/IEC 17025 is the standard for which most labs must hold accreditation in order to be deemed technically competent.

No. 81624 C.M.S., dated October 21, 2008; Resolution No. 80869 C.M.S., dated October 2, 2007; Resolution No. 80129 C.M.S., dated September 19, 2006; Resolution No. 79534 C.M.S., dated October 18, 2005 and Resolution No. 78909 C.M.S., dated November 16, 2004.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Crime Laboratory has conducted extensive validation studies using specific supplies, instrumentation, reagents, and software. Validation studies show that a method is fit for purpose and are a mandatory element of ISO 17025 Standards and the ANAB accreditation program. Where materials or instruments are part of a validated method, those specified materials must be used in the method. If the Laboratory is unable to procure the specified materials or services, the only alternative would be to revalidate analytical procedures - an impractical and time-consuming alternative that would be inefficient, expensive, and wasteful. Additionally, the Laboratory cannot always anticipate the requirements of future casework and must be able to acquire materials or services necessary to analyze the physical evidence at hand. Often, we are requested to work cases as a rush when a person must be arraigned within 48 hours of arrest or when a defendant request a speedy trial and does not waive time. To meet these legal requirements, we must be able to analyze the case evidence within the time frame mandated by law. In such cases, time is of the essence to expeditiously provide critical information to investigators and/or the courts, sometimes within 24 hours. Obtaining a "sole source" designation from City Council in these situations is impractical and may deleteriously affect the outcome of an investigation.

The City's competitive bidding process includes the consideration of suitable alternatives. However, with the Crime Laboratory, alternative products are often not acceptable. Crime Laboratory equipment often contains proprietary components that are under manufacturer warranty and cannot be serviced by any vendor other than the manufacturer. Examples include, but are not limited to: Life Technologies genetic analyzers used in DNA analysis; Perkin Elmer and Thermo-Fisher UV Visible spectrophotometers and the Fourier Transform Infrared (FTIR) spectrometer used in Drug Analysis; Foray Technologies ADAMS Digital Imaging System, the Coherent, Inc. TracER laser, the Foster + Freeman cyanoacrylate fuming cabinet, the Arrowhead Forensics FDC-5 environmental chamber used in the Latent Print Unit; and the Leeds microscopes used in the Firearms Unit.

As a second example, the Laboratory provides collection kits for specific types of evidence. One such kit was designed by the Alameda County Crime Laboratory to its specifications and is used for the collection of gunshot residue (GSR) from the hands of persons suspected of handling or discharging a firearm. This kit is only available from one vendor; there is no alternative source for this supply.

Lastly, the Laboratory is the OPD custodian of seized drug evidence. The Laboratory has designated the use of specific envelopes by OPD and outside agencies for the collection, packaging, and submission of suspected drug evidence. Since the 1980's, the required envelope is one that is secured by a pair of interlocking metal clasps that provide greater security than the use of tape, as tape will fail with time. This envelope is available from one vendor only - the Security Envelope Company located in Minneapolis, MN. The second closest facility is in San Diego which, if forced to use, would incur additional transportation, travel and

overtime costs as well as added security risk. It is reasonable and justified to continue using Covanta.

As custodian, the Laboratory is responsible for the security of drug evidence and, ultimately, for its destruction by incineration. Because these materials are considered hazardous, OPD is required by law to dispose of them at a state regulated incinerator. The closest facility to Oakland is in the central valley and is operated by Covanta, Inc.

The Crime Laboratory also faces timeline challenges that do not always allow for effective compliance with the competitive bidding requirements. There are times when the evidence in a case is of a type that has not previously been seen by the laboratory or requires a unique solution to solve the analytical challenge at hand. Under these circumstances, laboratory standards or specialty equipment need to be acquired quickly. For example, new or novel drugs become available almost weekly on the illicit market and must be analyzed rapidly by the Crime Laboratory to meet court deadlines. Analysis of these drugs requires comparison to a known drug standard in order to identify the material. It is impractical and expensive to have every drug standard on hand. Not all drug standard supply companies stock the same materials, frequently making it impossible to obtain three bids for the material required. Ordering drug standards for these novel drugs is required to meet strict court-imposed deadlines, such as “no time waiver” cases. There is insufficient time in these cases to seek “sole source” designation from City Council to obtain the necessary standards under the current ordering rules unless a mechanism allowing rapid ordering of drug standards is authorized.

#### *Waiver of the Advertising and Bidding Process*

Section 2.04.050.1.5 (Bid Procedure) explains that the City can make exceptions to its competitive bidding process when City Council finds and determines that it is in the best interest of the City. It is not possible to anticipate when casework situations will arise which require additional supplies, instrumentation, reagents, or software. The City’s advertising and competitive bidding requirements make it difficult for the Crime Laboratory to seek “sole source” purchasing authority each time such situations occur. Also, the Crime Laboratory employs forensic subject matter experts who possess the requisite scientific knowledge to determine which supplies, instruments, and services are most suited to the Laboratory’s needs or which are required to successfully analyze evidence in particular cases. Therefore, staff believes that it is in the City’s best interests to provide the OPD Crime Laboratory with the \$600,000 annual purchasing authority (for five years) separate from the City’s advertising and competitive bidding requirements. This waiver would be for the purchase of certified and accredited forensic laboratory analytical supplies, equipment, instrumentation, instrument services and software on an as needed basis when crime laboratory subject matter experts determined such supplies and services are required by the following criteria:

- Forensic casework conditions
- The laboratory’s validated methods, or its quality assurance program
- Needed for the timely analysis of evidence
- The materials or services are available from only one source

The Crime Laboratory also regularly needs to make many other, often smaller, purchases throughout the year. Table 1 below lists providers upon whom the Crime Laboratory currently depends for specific supplies, instrumentation, equipment, software and related services – all of which relate to casework, evidence custodial obligations, and quality assurance.

Table 1: OPD Crime Laboratory Supplies and Services Needed on a Regular Basis

<b>VENDOR/SUPPLIER</b>	<b>CATEGORY</b>	<b>DESCRIPTION</b>
<b>Laboratory Wide</b>		
CSI Forensic Supply	Goods	Gunshot Residue Collection Kit; Crime scene supplies
Fisher Scientific	Goods	General scientific laboratory supplies
Sigma Aldrich	Goods	Chemicals and reference standards
Uline	Goods	General laboratory and evidence packaging supplies
VWR	Goods	General scientific laboratory supplies
<b>Quality Management</b>		
American Society for Quality	Goods & Services	Quality assurance document repository, bookstore and training
ANSI National Accreditation Board	Services	ISO/IEC 17025:2017 Accreditation Body
Collaborative Testing Services, Inc	Services	ISO/IEC 17043 accredited proficiency test provider
Leeds Forensic Systems, Inc.	Services	Microscope and instrument calibration and maintenance
Leeds Precision Instruments, Inc.	Goods	Comparison and other optical microscopes
Mettler-Toledo Rainin, LLC	Goods & Services	Purchase, maintenance, calibration, and repair of pipettes
The REMI Group, LLC	Services	Service broker for analytical equipment, calibration, maintenance, and repair
Rice Lake Weighing Systems	Services	NIST <sup>2</sup> traceable instrument and weights calibration services
Ron Smith and Associates	Services	ISO/IEC 17043 accredited proficiency test provider
<b>Drug Analysis</b>		
Agilent Technologies	Goods & Services	Instrument and accessories vendor and service provider
Airgas	Goods	Compressed gases used in instrumental analyses
Cayman Chemicals	Goods	Analytical reference standards
Cerilliant Corporation	Goods	Analytical reference standards
Covanta, Inc.	Services	Closest California state regulated incinerator used for drug evidence destruction
Full Spectrum	Services	Instrument maintenance and repair
Perkin-Elmer	Goods & Services	Instrument accessories vendor and service provider
Steraloids, Inc	Goods	Steroid reference standards
Security Envelope Company	Goods	Provider of OPD designed drug submission envelopes with irreversible metal clasp locking closure system

<sup>2</sup> National Institute of Science and Technology

Thermo-Fisher	Goods & Services	Instrument and accessories vendor and service provider
Unity Lab Services	Goods & Services	Instrument and accessories vendor and service provider
<b>Firearms Unit</b>		
Autodesk	Goods	Crime scene reconstruction software
Brownells, Inc	Goods	Firearms and ammunition supplies
Cabella's	Goods	Firearms and ammunition supplies
Cheaper Than Dirt	Goods	Ammunition supplies
Grainger	Goods	Equipment and supplies
Leica Geosystems	Goods & Services	Crime scene digital imaging equipment and supplies; Crime scene software; Equipment maintenance and repair
Manthei Mess Systeme	Goods	Firearms identification software
Midway USA	Goods	Firearms and ammunition supplies
San Diego Police Equipment Co Inc.	Goods	Firearms and ammunition supplies
<b>Forensic Biology Unit</b>		
Arctic White, LLC	Goods	DNA analysis supplies
Aurora Biomed	Goods & Services	DNA analysis reagents and supplies; DNA instrument and equipment maintenance
Environmental Science and Research (ESR)	Services	DNA analysis software support
Life Technologies	Goods & Services	DNA analysis reagents and supplies; DNA instrument and equipment maintenance
Niche Vision Forensic, LLC	Goods & Services	DNA analysis software and support; Software training
Promega Corporation	Goods & Services	DNA analysis reagents and supplies; DNA instrument and equipment maintenance
Qiagen	Goods & Services	DNA analysis reagents and supplies; DNA instrument and equipment maintenance
Serological Research Institute (SERI)	Goods	Serology testing reagents and supplies
Thomas Scientific	Goods	DNA analysis reagents and supplies
Tri-Tech, Inc	Goods	Sexual assault evidence collection kits, Reference collection kits
USA Scientific	Goods	DNA analysis reagents and supplies
<b>Latent Print Unit</b>		
Adorama	Goods	Photography equipment, processing reagents and supplies
Arrowhead Forensics	Goods & Services	Processing reagents and supplies; Equipment maintenance and repair
Coherent, Inc	Services	Processing equipment maintenance and repair
EVIDENT	Goods	Processing reagents and supplies
Foray Technologies	Goods & Services	Digital image management system; Software support and maintenance
Forensic Comparison Software Company	Services	Forensic comparison software with temporary mini-AFIS database capability

Foster + Freeman Ltd	Goods & Services	Processing reagents and supplies; Equipment maintenance and repair
Safariland	Goods	Processing reagents and supplies
Sirchie	Goods	Processing reagents and supplies

The Crime Laboratory can more effectively focus its capacities on supporting OPD's Bureau of Investigation's (BOI) mission of investigating crimes if authorized to make the regular purchases from these different forensic supply companies to meet the needs listed above. The Crime Laboratory will also better support BOI if it can modify or add to the list in Table 1 to meet unknown, future casework demands. Consequently, the Laboratory requests the ability to order a material or service not specifically included on this list on a sole source basis when the material or service is critical to a validated analytical method, necessary to meet accreditation requirements, is legislatively required, or is so designated by a Crime Laboratory subject matter expert.

### **FISCAL IMPACT**

No additional funding sources are requested. OPD is not seeking any additional funding and will continue to use the Crime Laboratory specific OPD General Purpose Fund (1010.102610.PS05), in addition to grant funding sources awarded directly or indirectly to the crime laboratory for purchases. Current and future grant sources include but are not limited to DNA Capacity Enhancement and Backlog Reduction Program, Proposition 69, and Coverdell grants.

### **PUBLIC OUTREACH / INTEREST**

There were no notification requirements beyond standards legislative noticing requirements.

### **COORDINATION**

The Budget Bureau and the Office of the City Attorney were consulted in the production of this report as well as the accompanying resolution.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic opportunities associated with this report.

**Environmental:** There are no environmental opportunities associated with this report.

**Race and Social Equity:** The public has a significant interest in ensuring that the OPD Crime Laboratory can effectively process evidence; successfully processed evidence helps OPD with investigations that bring leads to effective criminal prosecutions. The public safety for all Oakland residents and visitors is enhanced through greater OPD investigative capacity.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Adopt A Resolution Waiving The City Advertising And Competitive Bidding Requirements For The Purchase Of Certified And Accredited Forensic Laboratory Analytical Supplies, Equipment, Instrumentation, Software, And Related Services On An As-Needed Basis When Crime Laboratory Subject Matter Experts Determine Such Supplies And / Or Services Are Required By Forensic Casework Conditions, The Laboratory's Validated Methods, Or Its Quality Assurance Program, Or Needed For The Timely Analysis Of Evidence, Or When The Materials Or Services Are Available From Only One Source In The Amount Of Up To Six Hundred Thousand Dollars (\$600,000) Per Fiscal Year Through June 30, 2025, For A Total Cost Not To Exceed Three Million Dollars (\$3,000,000)

For questions regarding this report, please contact Sandra Sachs, Crime Laboratory Manager, at (510) 238-3386.

Respectfully submitted,



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