



County of San Mateo

Inter-Departmental Correspondence

Department: CORONER

File #: 19-1296

Board Meeting Date: 1/28/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Robert J. Foucrault, Coroner

Subject: Forensic Pathology Agreements with Dr. Thomas W. Rogers, and Dr. Peter A. Benson

RECOMMENDATION:

Adopt a resolution:

- A) Amending the Forensic Pathology agreements with Dr. Thomas W. Rogers and Dr. Peter A. Benson to (1) extend the term of the agreements to June 30, 2021 and (2) revise the terms of payment by the County for the provision of forensic pathology services in the agreements from set monthly payments to a fee schedule based the number and type of clinical inspections or autopsies performed; and
- B) Waiving the Request for Proposal (RFP) process and authorizing the amended agreements with Dr. Thomas W. Rogers and Dr. Peter A. Benson for the provision of forensic pathology services to be increased to a total amount not to exceed \$1,126,350.

BACKGROUND:

The Coroner's Office is mandated by law to investigate and determine the cause and manner of death in all violent, sudden or unusual deaths. The Coroner's Office contracts with forensic pathologists certified by the American Board of Forensic Medicine in order to provide the highest-level quality of service in determining the cause of death for the citizens of San Mateo County (the "County").

The Coroner's Office has contracted with Thomas W. Rogers, M.D. ("Dr. Rogers") since May 2003 and Peter A. Benson, M.D. ("Dr. Benson") since 1968 to perform autopsies and clinical inspections on those individuals who have died in the County under circumstances where the cause is not clear or is unexpected. Dr. Rogers and Dr. Benson bring with them a high level of service, reliability, professionalism, and experience.

The current agreements with Dr. Rogers and Dr. Benson for forensic pathology services (the "Agreements") have a term of March 1, 2019 through February 28, 2021, and provide payment for services based on set monthly amounts per forensic pathologist -specifically, \$18,080.50 for services

performed by Dr. Rogers and Dr. Benson from March 1, 2019 through February 29, 2020, and \$18,974.00 for services performed by Dr. Rogers and Dr. Benson from March 1, 2020 through February 28, 2021 for a total amount not to exceed \$889,068.

DISCUSSION:

The Coroner’s Office is requesting to extend the Agreements, which have a current term of March 1, 2019 through February 28, 2021, to June 30, 2021 to align with the fiscal year. The amended Agreements would take effect February 1, 2020.

The Coroner’s Office is also requesting to increase the current Agreement amount of \$889,068.00 by \$237,282.00, for a new total of \$1,126,350.00. This increase covers both the additional four-month extension and accounts for the proposed increase associated with the new payment schedule.

The Coroner’s Office is requesting a change to move from set monthly payments to the included fee schedule and terms of payment which will allow for billing based on autopsy type and number of clinical inspections or autopsies performed. This method of payment is consistent with the fee schedule used by other counties in the State, including Alameda County, who contracts forensic pathology services and recently increased compensation for forensic pathology services by more than 40%. The proposed fee schedule will result in increased cost to the county but is necessary to allow San Mateo County Coroner’s Office to retain the services of Dr. Benson and Dr. Rogers as well as initiate succession planning and recruitment of additional board-certified forensic pathologists. It is imperative that the Coroner’s Office be competitive with its fee structure and compensation due to the national shortage of board-certified forensic pathologists to attract such specialists.

The amended agreements include payment based on fees for the following services:

| Description of Service | Fee |
|--|------------|
| Clinical Inspection and/or Review of Records | \$500.00 |
| Limited Autopsy | \$800.00 |
| Full Autopsy | \$1,850.00 |
| Specialized protocol (SUID/homicide) | \$2,550.00 |

A clinical inspection refers to an external examination and review of case history and medical records. A limited autopsy refers to a partial internal examination. A full autopsy refers to a complete internal examination including cranial vault examination. A specialized protocol refers to a complete internal examination including cranial vault examination and following specialized protocols. The forensic pathologists will be required to submit monthly invoices specifying the types of services provided under the Agreement.

The table below shows the number of examinations by type from previous years, the average annual number of cases by type, and the average monthly number of cases by type.

| Calendar Year | # Clinical Inspection Cases | # Limited Autopsy Cases | # Full Autopsy Cases | #Specialized Protocol Autopsy Cases |
|---------------|-----------------------------|-------------------------|----------------------|-------------------------------------|
| 2016 | 188 | 94 | 230 | 29 |
| 2017 | 178 | 130 | 223 | 31 |
| 2018 | 205 | 135 | 210 | 30 |

| | | | | |
|-----------------------|-----|-----|-----|----|
| 2019 | 168 | 151 | 266 | 23 |
| Average Annual Cases | 185 | 128 | 233 | 29 |
| Average Monthly Cases | 16 | 11 | 20 | 3 |

The table below shows the projected annual and monthly cost using the proposed fee schedule based on yearly and monthly case averages, the projected annual and monthly costs using the 2019 case numbers, and the projected annual and monthly costs using the highest case numbers of each case type. The Coroner's Office has experienced an approximate 7% increase in case load from 2018 to 2019 and expects to see case load continue to rise due to population increase and a continued comprehensive approach to medicolegal death investigations

| | # Clinical Inspection Cases | Clinical Inspection Cost (\$500.00 / case) | # Limited Autopsy Cases | Limited Autopsy Cost (\$800.00 / case) | # Full Autopsy Cases | Full Autopsy Cost (\$1,850.00 / case) | #Specialized Protocol Autopsy Cases | Specialized Protocol Cost (\$2,550.00 / case) | Annual Cost (using proposed fee) |
|--|-----------------------------|--|-------------------------|--|----------------------|---------------------------------------|-------------------------------------|---|----------------------------------|
| Average Annual Cases | 185 | \$92,500.00 | 128 | \$102,400.00 | 233 | \$431,050.00 | 29 | \$73,950.00 | \$699,900.00 |
| Average Monthly Cases | 16 | \$8,000.00 | 11 | \$8,800.00 | 20 | \$37,000.00 | 3 | \$7,650.00 | \$61,450.00 |
| Annual Cases (2019 numbers) | 168 | \$84,000.00 | 151 | \$120,800.00 | 266 | \$492,100.00 | 23 | \$58,650.00 | \$755,550.00 |
| Average Monthly Cases (2019 numbers) | 14 | \$7,000.00 | 13 | \$10,400.00 | 23 | \$42,550.00 | 2 | \$5,100.00 | \$65,050.00 |
| Highest Annual Caseload by type | 205 | \$102,500.00 | 151 | \$120,800.00 | 266 | \$492,100.00 | 31 | \$79,050.00 | \$794,450.00 |
| Highest Average Monthly Caseload by type | 18 | \$9,000.00 | 13 | \$10,400.00 | 23 | \$42,550.00 | 3 | \$7,650.00 | \$69,600.00 |

The table below shows the projected cost for proposed fee schedule plus the extended contract term based on the highest case numbers by type.

| | # Clinical Inspection Cases | Clinical Inspection Cost (\$500.00 / case) | # Limited Autopsy Cases | Limited Autopsy Cost (\$800.00 / case) | # Full Autopsy Cases | Full Autopsy Cost (\$1,850.00 / case) | #Specialized Protocol Autopsy Cases | Specialized Protocol Cost (\$2,550.00 / case) | Total Cost (using proposed fee) |
|--|-----------------------------|--|-------------------------|--|----------------------|---------------------------------------|-------------------------------------|---|---------------------------------|
| | | | | | | | | | |

| | | | | | | | | | |
|--|-----|--------------|-----|--------------|-----|--------------|----|--------------|----------------|
| 2/1/2020-6/30/2020 (5 months) | 86 | \$43,000.00 | 63 | \$50,400.00 | 111 | \$205,350.00 | 13 | \$33,150.00 | \$331,900.00 |
| 7/1/2020-6/30/2021 (12 months) | 205 | \$102,500.00 | 151 | \$120,800.00 | 266 | \$492,100.00 | 31 | \$79,050.00 | \$794,450.00 |
| Total Projected Cost of Agreement (17 months) | 291 | \$145,500.00 | 214 | \$171,200.00 | 377 | \$697,450.00 | 44 | \$112,200.00 | \$1,126,350.00 |

The Coroner’s Office is requesting a waiver of the RFP process because, as physicians, Dr. Rogers and Dr. Benson are specifically exempt from the process under County Administrative Memorandum B-1, § IV.B.15. Moreover, Dr. Rogers and Dr. Benson are only two of less than 500 full-time licensed practicing, board-certified forensic pathologists in the entire United States. Thus, there are an extremely limited number of qualified and available medical professionals to perform these services. The Coroner’s Office became accredited by the medicolegal death investigation office accreditation board, International Association of Coroners and Medical Examiners (IAC&ME), in November 2019. A requirement of accreditation mandates performance of forensic autopsies by board-certified forensic pathologists.

Both Dr. Rogers and Dr. Benson have assured compliance with the County’s Contractor Employee Jury Service Ordinance, as well as all other contract provisions that are required by County ordinance and administrative memoranda.

The Coroner requests that he or his designee be granted authorization to execute contract amendments that modify the County’s maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

County Counsel has reviewed and approved the resolution and agreements as to form. Risk Management has reviewed and approved the insurance.

PERFORMANCE MEASURE:

International Association of Coroners and Medical Examiners (IAC&ME) recommends the completion of all autopsy reports within 60 calendar days of autopsy performance as a forensic pathology best practice and requires the completion of all autopsy reports within 90 calendar days of autopsy performance.

| Measure | FY 2018-19 Actual | FY 2019-20 Projected |
|--|-------------------|----------------------|
| % of autopsy reports completed within 60 days (IAC&ME standard) | 88% | 65% |
| % of autopsy reports completed within 90 days (IAC&ME requirement) | 94% | 98% |
| Average number of days elapsed from date of autopsy performance to date of autopsy report completion | 31 | 57 |

In July 2019, the Coroner's Office transitioned to an accredited toxicology laboratory from a toxicology lab lacking accreditation. This transition was prompted by the pursuit of accreditation through IAC&ME. The Coroner's Office obtained accreditation through IAC&ME in November 2019, becoming the first accredited coroner's office in California. As a result of more thorough and comprehensive testing performed by the accredited toxicology laboratory, the performance measure for the forensic pathologists completing autopsy results within 60 days as recommended by IAC&ME has been affected; however, the required completion of autopsy results within 90 days has increased.

FISCAL IMPACT:

The amended term of the Agreements is from February 1, 2020 through June 30, 2021. The total obligation under the Agreements is \$1,126,350.00 for forensic pathology services. There are no increases currently scheduled.