



Agenda Submittal

Agenda #: 12 **Status:** Approved
Type: ATR **Department:** District Attorney
File #: 18-94 **Contact:** Krishna Abrams, 784-6800
Agenda date: 2/6/2018 **Final action:** 2/6/2018
Title: Authorize the Solano County District Attorney's Office to execute a grant revenue agreement with the California Office of Traffic Safety (OTS) to accept a maximum amount of \$803,215 for the period October 1, 2017 through September 30, 2018 for the purchase of scientific instrumentation along with training and supplies in support of the Bureau of Forensic Services' (BFS) forensic alcohol and toxicology program; and Approve an appropriation transfer request to recognize the \$803,215 in unanticipated grant revenue for the purchase of the instrumentation, training and supplies (4/5 vote required)
Governing body: Board of Supervisors
District: All
Attachments: 1. A - Grant Agreement, 2. B - Lab Facility Upgrade Estimate, 3. C - Grant Award Breakdown, 4. D - LC-MS/MS Grant Application, 5. Minute Order

Date	Ver.	Action By	Action	Result
2/6/2018	1	Board of Supervisors	Approved	

Published Notice Required? Yes ☐ No ☒
Public Hearing Required? Yes ☐ No ☒

DEPARTMENTAL RECOMMENDATION:

The District Attorney (DA) recommends that the Board of Supervisors:

- 1) Authorize the DA to execute a revenue grant agreement with the California Office of Traffic Safety (OTS) to accept a maximum grant amount of \$803,215 for the period of October 1, 2017 to September 30, 2018 for the acquisition of scientific instruments, including training and supplies, in support of the Bureau of Forensic Science Division's forensic alcohol and toxicology program as follows: Gas Chromatograph Mass Spectrometer with Headspace Sampler (GCMS/HS) instrument, Gas Chromatograph Mass Spectrometer (GCMS), two Breath Test Instruments, and Liquid Chromatograph with Tandem Mass Spectrometer (LC-MS/MS); and
- 2) Approve an appropriation transfer request to recognize the \$803,215 in unanticipated grant revenue for the purchase of the instrumentation, training and supplies (4/5 vote required).

SUMMARY:

The California Office of Traffic Safety (OTS) administers grant funding received from the federal National Highway Traffic Safety Administration (NHTSA) for the enhancement of technology used for the enforcement of impaired driving initiatives. The District Attorney's Bureau of Forensic Services is requesting authorization to accept \$803,215 in grant funding for the purchase of instrumentation used to support enforcement of impaired driving for the period of October 1, 2017 to September 30, 2018 (Attachment A).

FINANCIAL IMPACT:

Receipt of this grant funding would have no General Fund impact. The \$803,215 grant award for the purchase of instrumentation, installation, validation, computer integration of laboratory data systems, training and travel costs, and consumable testing supplies for instrument validation contains two components:

- 1) \$366,215 for the purchase and implementation of a replacement Gas Chromatograph Mass Spectrometer with Headspace Sampler for blood alcohol testing, an additional GCMS, and two additional breath test instruments for the use by Solano County law enforcement agencies; and
- 2) \$436,000 for the purchase and validation of a Liquid Chromatograph with Tandem Mass Spectrometer (LC-MS/MS) for testing of blood for drugs.

Additionally, the purchase of the LC-MS/MS instrument will require a facility upgrade to the electrical and HVAC systems, and cabinetry reconfiguration for the installation of the instrument estimated by General Services to be approximately \$29,230 (Attachment B). The facility upgrade would be funded with DA Asset Forfeiture Fund revenues. The specialized equipment would require an ongoing maintenance/service contract to ensure it is maintained and in proper working order. This maintenance/service contract is estimated to be \$35,000 per fiscal year and would begin 12-months following installation of the instrument; most likely not until at least FY2019/20. However, the annual maintenance cost would be offset by a decrease in the toxicology tests that are currently outsourced for private laboratory testing due to the BFS laboratory's limited capabilities. The reduction is estimated to be at least \$35,000 or more per fiscal year (based on current spending) beginning in FY2019/20.

DISCUSSION:

The California Office of Traffic Safety (OTS) administers grant funding received from the federal National Highway Traffic Safety Administration (NHTSA) for the enhancement of technology used for the enforcement of impaired driving initiatives. Acceptance of this \$803,215 grant award is for the purchase of instrumentation used to support enforcement of impaired driving for the period of October 1, 2017 to September 30, 2018. The OTS grant award contains two components (Attachment C) as follows:

- 1) \$366,215 for the purchase and implementation of a replacement Gas Chromatograph Mass Spectrometer (GCMS) with Headspace Sampler for blood alcohol testing in support of Solano County's enforcement of impaired driving. In addition, this funding will support the purchase and implementation a new GCMS that will allow the BFS to do additional forensic toxicology testing in support of Driving Under the Influence of Drugs (DUID) enforcement. Thirdly, this funding was approved for two additional breath test instruments for the use by Solano County law enforcement agencies to ensure accessibility to these instruments for the purpose of enforcement of DUI alcohol enforcement.
- 2) \$436,600 for the purchase and validation of a Liquid Chromatograph with Tandem Mass Spectrometer (LC-MS/MS) for testing of blood for drugs. This purchase has been delayed by OTS and NHTSA due to federal purchasing issues related to the federal Buy America Act. Therefore, this specific portion of the funding may not occur within FY2017/18 and has been requested for reapplication for the FY2018/19 grant year, per recommendation by OTS. The Board authorized the resubmittal of this grant proposal on January 23, 2018.

Funding has been approved by OTS and NHTSA for these instrument purchase and implementation projects with the caveat of the delay in federal approval for the purchase of LC-MS/MS equipment previously approved and funded by OTS (from NHTSA) on June 1, 2017. This delay occurred due to the need for waivers to the federal Buy America Act. The grant funding for these instrument purchases are required to be utilized during specified federal fiscal years that run from October 1st through September 30th of each year. OTS and California DOJ are currently working with several grantees within California (including the BFS) along with NHTSA officials on a waiver process for the purchase of the LC-MS/MS instrument as there are currently no qualifying instruments that are fully made in the United States. Each recipient laboratory has submitted a

waiver request through OTS to NHTSA.

Because of this delay, the BFS has resubmitted \$436,600 grant request for the portion of the grant project related to the LC-MS/MS instrumentation on January 23, 2018 for FFY2018/19 as recommended by OTS (Attachment D). These grant funds must be expended by September 30, 2018.

Use of marijuana and prescription drugs is increasingly prominent among drivers on roads, which raises a new safety challenge, and the testing provided by the use of the LC-MS/MS instrument will enhance the ability to prosecute impaired driving cases by providing much more information regarding the types of drugs and levels of drugs within a defendant's system at the time of driving. In addition, OTS partners with local law enforcement agencies of the state to address California's highway safety needs using NHTSA grant program funds.

The lab currently utilizes an ELISA system to screen for classes of illicit drugs followed by Gas Chromatography/Mass Spectrometry (GCMS) instrumentation for the confirmation and quantitation of drugs. While the scope of drugs tested for is limited, the levels of sensitivity for the quantity of drugs within blood is also limited. The technology advancement of LC-MS/MS has become the Forensic Toxicology Industry's preferred method for testing of toxicology samples due to increased sensitivity, efficiency and ease of sample preparation. With LC-MS/MS, the BFS would have the ability to confirm marijuana (THC and metabolites) on DUID samples, in addition to an increase in the types of drugs tested to include all NHTSA designated Tier 1 substances, as well as increase sensitivity to eventually meet the NHTSA recommended testing sensitivity levels. Another benefit for this technology is the reduced volume of blood sample needed when utilizing the LC-MS/MS instrument. By adding the LC-MS/MS technology to the laboratory's capabilities, the BFS should be able to increase the number of blood samples tested with no increase to staffing. In addition to the increase volume of samples, the array of drugs tested for would be increased to all "Tier 1" drugs specified by the NHTSA.

Additionally, with the increased use of medical marijuana and the recent passage of Proposition 64 - Marijuana Legalization (2016) in California, legalizing the use of recreational marijuana, there is an expected increase in the number of drivers impaired with marijuana and a corresponding increase in the number of blood samples advanced for drug testing as OTS grants have also provided funding for increased officer training for local law enforcement agencies on the detection of DUIDs. Correspondingly, the California Highway Patrol (CHP) continues their statewide Advanced Roadside Impaired Driving Enforcement (ARIDE) and Drug Recognition Evaluator (DRE) projects on drug recognition and impairment in individuals, and cases involving drugs or a combination of drugs and alcohol.

Moreover, of the 58 counties that comprise the State of California, Solano County has the 11th highest rate of fatal traffic crashes and the 8th highest rate of fatal crashes involving alcohol based on a 2013 study conducted by the OTS. It stands that Solano County would rank similarly in fatal crashes involving drug impairment. Solano County ranks 20th in population size out of the 58 counties. With Interstate 80 connecting the Sacramento region with the San Francisco Bay Area region, and running through three major cities in Solano County, there is a high likelihood of a larger proportion of impaired drivers driving through the county.

ALTERNATIVES:

The board may choose to not authorize the District Attorney to execute the grant agreement with OTS to accept the grant award; however, this is not recommended as the grant award provides for the replacement of instrumentation that is near the end of its useful life, and the LC-MS/MS provides the BFS to test blood samples for relevant drugs, including marijuana/THC that would otherwise have to be continually outsourced and the outsourcing costs continue to increase. This not only creates additional costs to the County for the testing services, but also contractor's cost related to litigation preparation and potential court testimony could be incurred.

OTHER AGENCY INVOLVEMENT:

The District Attorney's Office has worked with the Auditor-Controller's Office as the accounting official and the County Administrator's Office have been consulted.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION