



MEMO

DATE: December 02, 2024
TO: Tehama County Board of Supervisors
FROM: Tehama County Department of Social Services
SUBJECT: Redwood Toxicology Laboratory, Inc. Requests Modified Insurance Language in Exhibit A

Redwood Toxicology Laboratory, Inc. (RTL), the contractor requested agreement revisions and modified insurance language in Exhibit A to align with Abbott's standards and policies. RTL has provided drug testing and confirmation services to our department since 2010 for our court-ordered families working with CPS seeking to gain legal visitation or custody rights of their child. California Family Code Section 3011 states that the results of the testing are used for determining custody or visitation rights. Redwood Toxicology is under the government services division of Alere Toxicology, Alere Toxicology was then acquired by Abbott.

Renew of this agreement began in May 2024, with the term ending in September 2024. RTL requested multiple revisions, and since May communications have been held between Social Services and RTL, and County Counsel and County Administration. Some of the revisions were reviewed and approved by County Counsel. Those are summarized on the last page of this memo.

Exhibit A. Insurance Requirements is what requires Board of Supervisors at this time. County Counsel reviewed and deferred to County Administration. At County Administration, Tom Provine, Administrative Services Director, indicated that these are substantial language revisions that could not be approved as a Purchasing Agreement, but could be brought to Board of Supervisors. The table on the next two pages summarizes these requested modifications.

Standard County Insurance Requirement	Contractor’s Requested Changes
<p><u>Professional Liability</u></p> <p>If Contractor maintains higher limits than the minimums shown above, County shall be entitled to coverage for the higher limits maintained by Contractor.</p>	<p>Remove as language is redundant; Insurance shall not limit indemnity obligations per the “policy obligations” section below.</p>
<p><u>Professional Liability</u></p> <p>All such insurance coverage, except professional liability insurance, shall be provided on an “occurrence” basis, rather than a “claims made” basis.</p>	<p>Remove “All such insurance coverage, except professional liability insurance, shall be provided on an “occurrence” basis, rather than a “claims made” basis” because the contractor cannot comply due to the way their policy is written. They can offer to keep claims-made policies in force after agreement terminates in the event claims occur after termination. Contractor requests to include the following sentence, “If any such insurance is insured on a claims-made basis, such insurance shall be maintained for three (3) years after termination of the Agreement.”</p>
<p><u>Deductibles and Self-Insured Retentions</u></p> <p>Any deductibles or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County. The deductible and/or self-insured retentions will not limit or apply to Contractor’s liability to County and will be the sole responsibility of Contractor.</p>	<p>Remove “Any deductible or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County.” and change “The deductible ... to Any deductible ...” because proprietary information; Abbott is investment grade and can meet its indemnity and deductible obligations in this agreement.</p>
<p><u>Coverage Cancellation</u></p> <p>Each insurance policy required herein shall be endorsed to state that “coverage shall not be reduced or canceled without 30 days’ prior written notice certain to the County.</p>	<p>Include the following sentence “ if such an endorsement is not available, notice shall be provided by the Contractor.” Because their insurer cannot provide notice, however RTL can instead.</p>
<p><u>Subcontractors</u></p> <p>Contractor shall require and verify that all subcontractors maintain insurance that meets all the requirements stated herein.</p>	<p>Remove as it is not applicable; no subcontractors under this agreement.</p>
<p><u>Verification of Coverage</u></p> <p>Contractor shall furnish County with original certificates and endorsements effecting coverage required herein. All</p>	<p>Remove “The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required</p>

certificates and endorsements shall be received and approved by the County prior to County signing the agreement and before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

by these specifications at any time.” This was approved in FY 23-24 contract. Also, contractor indicates proprietary information that cannot be provided, however, they shall provide a certificate of insurance evidencing coverage.

Below are additional areas of modification. These were reviewed and approved by County Counsel.

Paragraph 10. Indemnification.

- Contractor requested to remove “*elected officials*” and “*volunteers*” from the wording and asked County to include the following fees: “*expert fees, litigation costs, and investigation costs.*”
- Contractor is also requested to include “*third party person’s or persons’ bodily injury*” and to replace the rest with damages caused by “*negligent acts, willful acts, or errors or omissions of Contractor, or any person employed by or under Contractor in any capacity, during the provisions of services provided for herein, except to the extent the injury or loss is caused by the negligence of intentional wrongdoing of the County.*”
- Contractor is also asking that we include a paragraph with the same changes to hold harmless, defend, and indemnify the Contractor.

Paragraph 28. Ownership of Documents.

- Contractor requested to include “*Copies*” to the wording.
- Contractor requested to include “*County acknowledges and agrees that certain pre-existing patents, patent applications, trademarks, service marks, trade dress, copyrights, design rights, know-how, inventions, trade secrets, technologies, moral rights or other proprietary or intellectual property rights owned prior to execution of the Agreement or developed independently of the Agreement (“Pre-Existing Intellectual Property”) are the separate property of Contractor, and shall remain solely owned by Contractor. Notwithstanding anything in this Agreement to the contrary, County will not acquire ownership of any Pre-Existing Intellectual Property, including any improvements to such Pre-Existing Intellectual Property.*”

Paragraph 36. Duplication of Services and Referrals.

- Contractor requested to remove the following paragraph “*Contractor, Contractors’ employees and partners, and any Sub-Contractors agree to refer clients to other existing services as appropriate. New and Existing services shall be coordinated to prevent duplication of services.*”

Contractor certifies, by signing this agreement, that the services being provided would not otherwise be available to registrants free of charge in the absence of County funding.”