

REQUEST FOR MONITOR APPLICATIONS

Consent Decree Entered April 7, 2017

Regarding the Police Department of Baltimore City

1. The United States, the Mayor and City Council of Baltimore, and the Police Department of Baltimore City (collectively, “the Parties”) are seeking applications for an independent monitor to assess and report on implementation of a Consent Decree regarding the Police Department of Baltimore City (“BPD”).¹

2. The City and BPD worked collaboratively with the Justice Department to negotiate a Consent Decree designed to ensure lawful and effective policing in Baltimore. The Consent Decree specifies reforms to BPD’s policies, training, supervision, and accountability systems, and establishes mechanisms for transparency and community oversight. Implementation of the Decree will be assessed by an independent monitor (“Monitor”) that will report to a federal court. The Monitor will consist of a head monitor and a team of individuals with relevant expertise, as specified below.

3. On January 12, 2017, the United States filed a Complaint in the U.S. District Court for the District of Maryland, and, shortly thereafter, the Parties filed a joint motion asking the Court to enter the Consent Decree to address the Complaint’s allegations. The Court entered the Consent Decree as a court-enforceable order on April 7, 2017.

4. The Parties are seeking individuals, firms, or organizations to serve as the Monitor to assess implementation of the Consent Decree. The Monitor will serve as an agent of

¹ Terms used in this Request for Monitor Applications that are defined in Section XVIII of the Consent Decree shall be interpreted to be consistent with those definitions.

the U.S. District Court for the District of Maryland. Once selected and appointed by the Court, the Monitor's team will assess implementation of the Consent Decree, provide technical assistance, engage in community outreach, and issue public reports on BPD and the City's compliance with the Consent Decree.

5. This Request for Applications ("RFA") is not part of, and shall not be governed by, any formal municipal, state, or federal procurement process. The Parties may solicit information regarding Monitor candidates through means other than this RFA. Interested parties are responsible for all costs associated with responding to this RFA, including costs related to any travel required during the selection process.

6. The RFA provides a summary of the requirements and expectations for the Monitor under the Consent Decree. It is not intended to be an exhaustive explication of the Consent Decree, and the Consent Decree shall control any discrepancies between the RFA and the Consent Decree with respect to the role of the Monitor.

7. Background information and requirements for responding to the RFA are set forth below. Section I describes the scope of the work the Monitor will be required to perform and supervise pursuant to the Consent Decree. Section II describes required qualifications for the Monitor and its constituent team members. Section III describes the Monitor's responsibility to propose and maintain a budget pursuant to limitations set by the Consent Decree. Section IV sets forth specific requirements for all responses to the RFA. Candidates are instructed to follow closely the instructions laid out in Section IV. Section V informs prospective candidates that all responses to the RFA will be disclosed publicly. Section VI describes the selection process under the RFA and the Consent Decree.

I. SCOPE OF THE WORK

8. The Monitor will assist the Court and the Parties in evaluating BPD and the City's implementation of the Consent Decree. The Monitor will provide thorough, objective assessments of whether BPD and the City have obtained Full and Effective Compliance with the Material Requirements of the Consent Decree.

9. The Monitor will assist in achieving compliance with the Consent Decree by offering technical assistance, issuing recommendations, soliciting information from and providing information to members of the public, and preparing public reports on the Consent Decree's implementation.

10. The Monitor will work closely with BPD and its staff, in a cost-effective and collaborative manner, to ensure both Full and Effective Compliance under the Consent Decree and positive, constructive, and long-lasting change for BPD, and the community at large.

11. As set forth in Paragraphs 442-488 of the Consent Decree, to realize these objectives, the Monitor must assume certain concrete responsibilities. Responses to the RFA must address, in detail, how candidates will meet these responsibilities.

12. The Monitor must develop and implement annual monitoring plans for implementing the Consent Decree. The Monitor must develop the monitoring plan within 90 days of appointment by the Court.

13. At minimum, the Monitoring Plans shall include the following:

- a. An overview for how BPD will reach Full and Effective Compliance with all Material Requirements of the Consent Decree within five years, including a schedule with specific deadlines for the upcoming year and a general schedule for successive years;

- b. A review and approval process for all BPD actions that are subject to review and approval by DOJ and or the Monitor;
- c. An explanation for how the Monitor will assess compliance with the material requirements of the Consent Decree;
- d. A description of outcome assessments and compliance reviews that will be used to assess compliance with the Consent Decree, including a general description of the methodologies used;
- e. A schedule for conducting all outcome assessments and compliance reviews, taking into account that the data and technology necessary to conduct the assessments or reviews may be currently unavailable;
- f. A process for sharing the results of all outcome assessments and compliance reviews with the parties, including all source data and information analysis, and a complete and detailed explanation of any conclusions;
- g. Delineation of the roles and responsibilities of the Monitor's team members, including identifying a Deputy Monitor with authority to act in the Monitor's absence, lead members who have primary responsibility for each section of the Consent Decree, and specifying whether the Monitor has delegated approval authority to a team member in their area of primary responsibility;
- h. A protocol for communication, engagement, and problem solving with BPD and DOJ; and
- i. Identification of any documents that must be preserved beyond the requirements of applicable retention policies.

14. The Monitor must communicate with the public and receive public input, which shall include quarterly in-person meetings with different Baltimore neighborhoods. The Monitor shall also maintain a public website and will post its proposed budget and accounting to that website. The Monitor is also expected to conduct outreach to and maintain open channels of communication with BPD officers and organizations representing officers.

15. The Monitor shall provide technical assistance to the City and BPD, including recommending strategies to ensure that the City and the BPD are effectively implementing the Consent Decree.

16. The Monitor shall make recommendations to the Parties regarding measures necessary to ensure Full and Effective Compliance with the Consent Decree, which may include recommendations to change, modify, or amend a provision of the Consent Decree, recommendations for additional training in an area unrelated to the Consent Decree, or a recommendation to seek technical assistance.

17. The Monitor shall formulate outcome measures and compliance assessments and conduct qualitative and quantitative assessments of progress under the Consent Decree.

18. The Monitor shall regularly produce reports to the public and the Court. These reports shall include, but are not limited to:

- a. A description of the work conducted by the Monitor during the reporting period, including the extent to which the Monitor provided technical assistance;
- b. A projection of the work to be completed during the upcoming reporting period;
- c. BPD and the City's progress implementing the Consent Decree;
- d. Any obstacles to effective implementation;

- e. The methodology and specific findings for each outcome assessment conducted; and
- f. An appendix listing each requirement of the Consent Decree that the Monitor reviewed and stating whether the requirement has reached full and effective compliance, is in progress, or is not yet started.

19. Two years after the date the Consent Decree is entered by the District Court of Maryland, and every two years thereafter, the Monitor shall conduct a comprehensive re-assessment to determine whether and to what extent the material requirements of the Consent Decree have been achieved. This re-assessment shall include areas of greatest achievement as well as areas of greatest concern, as well as strategies and technical assistance for achieving compliance.

20. The Monitor shall prepare and submit annual budgets for monitoring the Consent Decree.

21. The Monitor shall regularly communicate with the Parties regarding the status of the implementation of the Consent Decree.

22. The Monitor shall, on a regular basis, meet with community members and BPD officers to inform them about the Consent Decree implementation process and to listen to their questions, concerns, and suggestions regarding its implementation.

23. The Monitor shall make public statements only to the extent permitted by the terms of the Consent Decree, and shall testify in proceedings only as provided in the Consent Decree.

24. The Monitor shall maintain the highest ethical standards.

II. QUALIFICATIONS

25. Pursuant to the criteria listed at Paragraph 443 of the Consent Decree, responses to the RFA shall specify, in detail, the qualifications for Monitor candidates.

26. These qualifications include, but are not limited to, expertise in the following areas:

- a. Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders;
- b. Law enforcement practices, including community policing and engagement; use of force and force investigations; practices for conducting and reviewing pedestrian and vehicle stops, frisks, searches, and seizures; practices for conducting and reviewing arrests; crisis intervention and de-escalation techniques; bias-free policing, First Amendment protected speech and public assembly and related rights; intake, investigation, and adjudication of complaints of officer misconduct; civilian oversight; police-youth interactions; and policy development and officer and staff training;
- c. Assessing legal sufficiency and compliance with constitutional and other legal requirements;
- d. Familiarity and understanding of local issues and conditions, including local experience and expertise with Baltimore's diverse communities, and issues and challenges facing those communities;

- e. Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods;
- f. Familiarity with federal, state, and local laws;
- g. Evaluating organizational change and institutional reform, including by applying qualitative and quantitative analyses to assess progress, performance, and outcomes;
- h. Working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and other stakeholders interested in policing issues;
- i. Engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing;
- j. Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation;
- k. Use of technology and information systems, including data collection and management, and analytical tools, to support and enhance law enforcement practices;
- l. Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony;
- m. Writing complex reports for dissemination to diverse audiences;
- n. Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies;

- o. Reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices;
- p. Municipal budgets and budgeting processes;
- q. Completing projects within anticipated deadlines and budgets; and
- r. Any other qualifications the Monitor candidates believe are pertinent to fulfilling the duties of Monitor under the Consent Decree.

27. Monitor candidates shall demonstrate an ability to work collaboratively with the City, BPD, and DOJ to enable BPD to reach compliance with the Consent Decree, and the ability to do so in a cost-effective manner.

III. BUDGET

28. The Monitor shall be responsible for proposing and maintaining a budget for the work to be performed under the Consent Decree.

29. The Parties have agreed that monitoring costs shall not exceed \$1.475 million per year. Under the Consent Decree, the Court has the discretion to increase the cap on monitoring expenses by a specific amount for a specific year at the Monitor's request. To grant the request, the Court must find that the increase is necessary for the Monitor to fulfill its duties under the Agreement and is not due to a failure in planning, budgeting, or performance by the Monitor.

IV. REQUIREMENTS FOR RESPONSES TO THE RFA

30. All responses to the RFA should be organized by numbered paragraph, corresponding to the numbered paragraphs listed in the RFA.

31. Applications to serve as the Monitor or the monitoring team should include, at minimum, the following information:

32. **Executive Summary:** A brief description of each member of the candidate's team; relevant experience of the team members; any distinguishing skills or experiences; and a summary of the proposed budget.

33. **Scope of Work:** Responses to the RFA shall include references to the requirements outlined in Paragraphs 8-27 above and detailed descriptions of how candidates will meet those requirements.

34. **Personnel and Current Time Commitments:**

- a. The names of the individuals and/or subcontractor consultants who would comprise the team;
- b. A summary of the relevant background of each team member;
- c. The internal organization of the team, including the areas of responsibility for each member;
- d. A description of all other current employment, projects, or other professional undertakings for each team member, noting the team member's time commitments for each; and
- e. Team members' status, if any, as a small, local, woman-owned, or minority-owned business, and what percentage of the Monitor's total work for which they will be responsible. If any team members have received certification or official confirmation of such status, they should specify the agency or authority that has granted certification.

35. **Qualifications:** Monitor applications should specify each team member's qualifications per Paragraphs 25-27, including background information; experience in each of the

areas of expertise identified in Paragraph 26, as applicable, with reference to corresponding subparagraphs; and any other relevant experience.

36. **Prior Experience and References:** Monitor applications should list current or recent experience (within the last 10 years) for each team member that is relevant to the monitoring duties specified by the RFA, with reference to the numbered paragraph that corresponds to the relevant current or recent experience. This information should include references for each project listed, and, if available, examples of non-confidential work product that is similar to the materials required for this project.

37. **Budget:** As described in Paragraphs 28-29 of the RFA, and Paragraph 443 of the Consent Decree, Monitor applicants must provide, for at least 5 years, proposed annual budgets for the project based on the above Scope of Work and the requirements of the Consent Decree. Responses to the RFA shall include annual breakdowns of forecasted costs for fulfilling the Monitor's responsibilities as described in Section I, and for achieving Full and Effective Compliance under the Consent Decree. Forecasted costs and proposed annual budgets will be broken down in detail to the extent practicable. Candidates will be mindful that, if selected as Monitor, their proposed budgets are expected to form the basis of their actual budgets, and any departures without reasonable cause will be disfavored.

38. **Collaboration and Cost Effectiveness:** Candidates should also respond directly to Paragraph 27 of the RFA, and provide concrete examples as to how they plan to work collaboratively with the parties to achieve Full and Effective Compliance under the Consent Decree, and how they plan to do so in a cost-effective manner.

39. **Potential Conflicts of Interest:** Monitor applicants should disclose any potential or perceived conflicts of interest involving any members of the monitoring team, associated

firms or organizations, and any employee(s) assigned to the project, or proposed subcontractor(s). Such conflicts may include, but are not limited to:

- a. Current or former employment contracts or grants with the City of Baltimore, BPD, the State of Maryland, or the United States;
- b. Any involvement in the last ten years with a claim or lawsuit by or against the City of Baltimore or BPD, the State of Maryland, the United States, or any of their officers, agents, or employees;
- c. Any close, familial, or business relationship with any of the mentioned entities; and
- d. Any member of the monitoring team who has been the proponent or subject of any complaint, claim, or lawsuit alleging misconduct.

40. To the extent a conflict or potential bias exists, the application must explain why it does not bar the individual's or the team's selection, including any legal or ethical opinions or waivers upon which the candidate relies.

41. For the duration of the monitorship, neither the Monitor nor any member of the monitoring team shall be permitted to enter into any contract with the City, BPD, or the United States unless the Monitor first discloses the potential contract to the Parties and the Parties agree in writing to waive any conflict. If a member of the monitoring team resigns, the member may not enter into any contract with the City, BPD, or the United States on a matter related to the Consent Decree without the written consent of the Parties while the Decree remains in effect.

42. Members of the monitoring team will not be permitted to represent or work for any individual or organization in any criminal, civil, or administrative matter adverse to the City, BPD, or the United States Department of Justice, Civil Rights Division, including any individual

or organization designated as a witness, consultant, victim, defendant, subject, target, or person of interest, for the duration of the monitorship.

43. All candidates who respond to the RFA, including team members, will be deemed to have read and understood the RFA, and are willing to be bound thereby.

44. All candidates who respond to the RFA, including team members, will also be deemed to have read and understood the Consent Decree, and are willing to be bound thereby.

V. PUBLIC DISCLOSURE

45. The Parties have agreed to make public the applications submitted in response to this request. Applicants are advised not to include in their responses any trade secrets, proprietary information, or other information they do not want made public.

VI. SELECTION PROCESS

46. Applications must be submitted to both Department of Justice and the City by June 8, 2017. Applicants should submit materials in both electronic form and hard copy to the individuals listed below. Hard copies should be sent by USPS Priority Mail or overnight carrier to ensure timely delivery. Please state “BPD Monitoring Application” in the email subject line and on the package containing the hard copy application.

For the United States Department of Justice:

Puneet Cheema
Trial Attorney
Civil Rights Division
U.S. Department of Justice
601 D Street NW
Washington, DC 20579
puneet.cheema2@usdoj.gov

For the City of Baltimore:

Erin Sher Smyth
Purchasing Agent for Baltimore City
231 E. Baltimore Street – 3rd Floor
Baltimore, MD 21202
Erin.Sher@baltimorecity.gov

47. All candidates will be evaluated based on a combination of several factors, including but not limited to team composition, qualification and experience, proposed methodology, proposed annual budgets, potential conflicts or bias, and time commitments. Candidates will also be evaluated on the extent to which their responses to the RFA satisfactorily explain, in detail, how they plan to work collaboratively with BPD, the City, DOJ, and community stakeholders to achieve Full and Effective Compliance under the Consent Decree, and how they plan to do so in a cost-effective manner.

48. Following the submission deadline, there will be a public comment period in which members of the public can review submissions and make recommendations to the Parties. After the public comment period, the Parties will evaluate the candidates, considering the recommendations made by members of the public, and agree on a subset of the teams to interview. In selecting whom to interview, the Parties may request additional information from the candidates. Interviews will be in person and conducted in Baltimore.

49. The Parties will then agree upon the teams that are finalists for the Monitor role. If the Parties cannot agree on finalists, the City and BPD, and DOJ may each name up to two teams (two for the City and BPD, and two for DOJ), to the finalist list. In selecting the finalists, the Parties may request additional information from the candidates. After a list of finalists is established, the Parties may conduct a second interview of the candidates, in-person at the Parties' discretion. The Parties will provide an opportunity for candidates to respond to

questions and concerns from the Baltimore community. As part of this process, the Parties will provide for two public meetings in different sectors of the City at which candidates may respond to written questions submitted by members of the public. After the finalists have been interviewed and responded to questions submitted by the public, the Parties will agree on a Monitor to propose to the Court in a joint motion. If the Parties cannot agree on a Monitor, the City/BPD and DOJ may each submit one proposed team to the Court, which will select the Monitor.

50. The Monitor is an agent of the Court upon such time as the Court enters an Order appointing the Monitor.

51. The Monitor shall be appointed for an initial term of three years from the Effective Date of the Consent Decree, subject to an evaluation by the Court to determine whether to renew the Monitor's appointment until the termination of the Consent Decree or for an additional two years, whichever happens first.

52. The Monitor will be evaluated on its performance under the Consent Decree, including whether the Monitor is adequately engaging the community, completing its work in a cost-effective manner and on budget, and is working effectively and collaboratively with BPD to facilitate its efforts to comply with the terms of the Consent Decree.

53. The Monitor may be removed for good cause by the Court at any time, on motion by any of the Parties or the Court's own determination.

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The Consent Decree is available at: <https://www.justice.gov/crt/case-document/file/925036/download>

The United States' Findings Report is available at: <https://www.justice.gov/crt/case-document/baltimore-police-department-findings-report>

The United States' Complaint against the City and BPD is available at:
<https://www.justice.gov/crt/case-document/file/933296/download>