

## REQUEST FOR APPLICATIONS

### INDEPENDENT MONITOR

#### Consent Decree Entered Regarding the City of Ferguson

May 12, 2016

#### I. DESCRIPTION

The United States and the City of Ferguson (“Ferguson” or the “City”) are seeking applications for an independent monitor (to include an inter-disciplinary team) to assess and guide implementation of a judicially-enforceable Consent Decree regarding the Ferguson Police Department (“FPD”) and the Municipal Court.

In September 2014, the U.S. Department of Justice initiated a civil pattern-or-practice investigation into the FPD and Ferguson Municipal Court. On March 4, 2015, the Department of Justice released a [public report](#) that detailed a pattern or practice of unlawful conduct by the FPD and Municipal Court. Although the City of Ferguson denies the existence of any current or past pattern or practice of unconstitutional conduct, following the report’s release, the City and the Department of Justice (collectively, the “Parties”) worked collaboratively over the next year to craft a Consent Decree designed to ensure constitutional policing and court practices for everyone who lives in, works in, and travels through Ferguson. The Department of Justice filed a [Complaint](#) on February 10, 2016, and shortly thereafter the Parties jointly moved the U.S. District Court for the Eastern District of Missouri (the “Court”) to approve and enter the Consent Decree to address the allegations in the Complaint and to avoid costly and protracted litigation. On April 19, 2016, the Court approved and entered the [Consent Decree](#).

The Parties are seeking interested individuals, firms, or organizations to serve as the Independent Monitor (“Monitor”). Once selected and appointed by the Court, the Monitor and his or her team will assess implementation, provide technical assistance, and issue public reports on the City’s compliance with the Consent Decree.

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 seek and solicit information regarding interested parties through means other than this Request. Responders are advised that the Parties will not pay for any information or administrative costs incurred in response to this Request; all costs associated with responding to this Request will be solely at the Responder’s expense. Not responding to this Request does not preclude participation in any future RFA, if any is issued, nor does it eliminate an individual, firm, or organization from being considered to serve as the Monitor or a member of the Monitor’s team. Nevertheless, interested individuals, firms or organizations are strongly encouraged to respond to this Request.

## II. SCOPE OF WORK

The Monitor will assist the Court and the Parties in assessing and assisting the City's implementation of the Consent Decree. The Consent Decree specifies the duties and responsibilities of the Monitor, who will be subject to the supervision and orders of the Court.

Generally, the Monitor will provide objective and thorough assessments of whether the terms of the Consent Decree have been implemented and continue to be met, and whether implementation of the Consent Decree is resulting in the outcome required by the Consent Decree. The Monitor will assist in ensuring full and sustained implementation of the Consent Decree by offering technical assistance, issuing recommendations, soliciting information from and providing information to members of the public related to implementation of the Consent Decree, and preparing public reports on the Consent Decree's implementation.

To carry out this work, the Monitor will be required to:

- Develop and implement a plan, including appropriate staffing and scheduling, for (1) reviewing policies, training curricula, and other written materials requiring Monitor approval; (2) evaluating and auditing whether the material requirements of the Consent Decree have been implemented; and (3) outcome assessments, including community surveys required by the Consent Decree (§ 424);
- Develop, implement, and modify methodologies for and conduct reliable audits, reviews and outcome assessments of the City and FPD's compliance with the Consent Decree (§§ 426-27);
- Provide technical assistance to the City and FPD, including recommending strategies to ensure that the City and the FPD are timely, fully, and effectively implementing the Consent Decree (§ 428);
- Design, execute, and conduct reliable, comprehensive, and representative baseline and annual surveys of community members and police officers regarding their experiences with and perceptions of FPD, public safety, and the municipal court (§§ 429-31);
- Conduct qualitative and quantitative assessments (and review and recommend any changes to outcome measures listed in the Consent Decree), including but not limited to a three-year comprehensive assessment, to measure whether the City and FPD are engaging in constitutional and otherwise lawful law enforcement (§§ 434-437);
- Regularly (at least every six months) produce public and Court reports on the City and the FPD's progress implementing the Consent Decree and any obstacles to implementation, as required by the Consent Decree (§§ 438-39);
- Regularly communicate—including via monthly meetings—with the Parties regarding the City and the FPD's progress implementing and complying with the Consent Decree, any obstacles to implementation and compliance, and as otherwise necessary to facilitate effective implementation and compliance (§ 440);
- Regularly communicate with a broad spectrum of community stakeholders to explain the Monitor's reports and inform the public about the Consent Decree's implementation process, and to hear community perspectives on police interactions (§ 441);

- Develop protocols to assess whether the Civilian Review Board (“CRB”) is representative of the broader Ferguson community and whether the CRB is effectively serving the civilian oversight functions described in Missouri law and the Consent Decree (§ 410);
- Conduct regular (at least annual) data-based assessments of the impact of all police and court programs, initiatives, activities, and services to determine whether they impose a disparate impact on the basis of protected characteristics (§ 73);
- Assist the City in developing a plan to regularly (at least monthly) audit citations, arrest notification forms, and other notices of violations used by officers to ensure proper, thorough and accurate completion as required by the Consent Decree (§ 334);
- Assist the City in contracting with the provider of its current online payment system, or another qualified provider, to establish an online system through which a person charged with a violation can access specific case details (§ 337);
- Conduct on-site visits and assessments, interview individuals, tour facilities, and review documents to facilitate the monitorship (§§ 442-47);
- Maintain all documents related to the monitorship in a confidential manner as required by the Consent Decree (§ 448);
- Make public statements only as permitted by the terms of the Consent Decree (§ 449);
- Testify in proceedings only as provided by the Consent Decree (§ 450); and
- Maintain the highest ethical standards.

The substantive requirements of the Consent Decree are grouped into the following areas:

- Community Policing and Engagement;
- Reform of the Ferguson Municipal Code;
- Policies and Training;
- Bias-Free Police and Court Practices;
- Voluntary Contacts, Stops, Searches, Citations, and Arrests;
- First Amendment Protected Activity;
- Use of Force;
- Crisis Intervention;
- School Resource Officer Program;
- Body-Worn and In-Car Cameras;
- Supervision;
- Officer Assistance and Support;
- Recruitment;
- Performance Evaluations and Promotions;
- Supplemental Recruit and In-Service Training;
- Municipal Court Reform;
- Accountability;
- Civilian Oversight; and
- Data Collection, Reporting, and Transparency.

The Monitor will not replace or assume the role and duties of the City or FPD, including the Chief of Police, or any other City official. Pursuant to the Consent Decree, the Chief of the FPD retains authority to run the police department in accordance with the laws of Ferguson, Missouri, and the United States. Similarly, the St. Louis County Circuit Court and Missouri Supreme Court will retain authority to oversee the Municipal Court in accordance with the laws of Ferguson, Missouri, and the United States.

### **III. QUALIFICATIONS**

Experience in the following areas will be considered important, although lack of experience in any particular area will not necessarily disqualify a candidate:

- monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders;
- law enforcement practices, including use of force and investigations of force; search and seizure practices; constitutional policing; bias-free policing; community policing, problem-oriented policing and engagement; crisis intervention and de-escalation techniques; First Amendment speech and protest-related rights; intake, investigation, and adjudication of complaints of officer misconduct; civilian oversight; police-youth interactions; and officer and staff training;
- court practices, including bias-free practices; implementation of amnesty programs; transparency in court operations; judicial and prosecutorial independence; community service programs and fee scheduling;
- assessing legal sufficiency and compliance with constitutional and other legal requirements;
- familiarity and understanding of local issues and conditions;
- familiarity with federal and Missouri and local laws, including civil rights laws and policies and rules governing police and municipal court practices;
- evaluating, developing, or implementing processes for supervisors and managers to oversee training and accountability in a law enforcement organization;
- evaluating organizational change and institutional reform, including applying qualitative and quantitative analyses to assess progress, performance, and outcomes;

- working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and community members interested in policing issues;
- engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing;
- creation and evaluation of meaningful civilian oversight mechanisms;
- language skills and experience working with limited English proficient persons and communities, in particular communities whose primary language is Spanish;
- mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation;
- development of effective quality improvement practices;
- use of technology and information systems—including data collection and management, and analytic tools—to support and enhance law enforcement and court practices;
- providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies;
- reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices;
- institutional transformation and change management;
- appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony;
- writing complex reports for dissemination to diverse sets of stakeholders;
- statistical and data analysis;
- experience with municipal budgets; and
- completing projects within anticipated deadlines and budget.

#### **IV. REQUESTED INFORMATION**

The application to serve as the Monitor or the Monitor's team for the Consent Decree should include the following:

##### **A. Executive Summary**

A brief description of who makes up the team; relevant experience of team members; any distinguishing skills or experiences; and proposed cost.

##### **B. Personnel and Current Time Commitments**

- The names of the individuals and/or subcontractor consultants who would comprise the team;
- A summary of the relevant background of each team member;
- The internal organization of the team including the areas of responsibility for each member; and
- 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.

##### **C. Qualifications**

Each team member's qualifications, addressing the following areas as applicable:

- monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders;
- law enforcement practices, including use of force and investigations of force; search and seizure practices; constitutional policing; bias-free policing; community policing, problem-oriented policing and engagement; crisis intervention and de-escalation techniques; First Amendment speech and protest-related rights; intake, investigation, and adjudication of complaints of officer misconduct; civilian oversight; police-youth interactions; and officer and staff training;
- court practices, including bias-free practices; implementation of amnesty programs; transparency in court operations; judicial and prosecutorial independence; community service programs; and fee scheduling;

- assessing legal sufficiency and compliance with constitutional and other legal requirements;
- familiarity and understanding of local issues and conditions;
- familiarity with federal and Missouri and local laws, including civil rights laws and policies and rules governing police and municipal court practices;
- evaluating, developing, or implementing processes for supervisors and managers to oversee training and accountability in a law enforcement organization;
- evaluating organizational change and institutional reform, including applying qualitative and quantitative analyses to assess progress, performance, and outcomes;
- working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and community members interested in policing issues;
- engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing;
- creation and evaluation of meaningful civilian oversight mechanisms;
- language skills and experience working with limited English proficient persons and communities, in particular communities whose primary language is Spanish;
- mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation;
- development of effective quality improvement practices;
- use of technology and information systems—including data collection and management, and analytic tools—to support and enhance law enforcement and court practices;
- providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies;
- reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices;
- institutional transformation and change management;
- appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony;

- writing complex reports for dissemination to diverse sets of stakeholders;
- statistical and data analysis;
- experience with municipal budgets; and
- completing projects within anticipated deadlines and budget.

D. Prior Experience and References

List current or recent (within the past 10 years) project experience for members of the team relevant to the monitoring duties and responsibilities; references for each project listed, including the name of the organization, contact person, title, address, e-mail address and telephone number; and, if available, examples of non-confidential work product that is similar to the reports required for this project.

E. Potential Conflicts of Interest or Bias

Disclose any potential or perceived conflicts of interest involving the Monitor and/or any members of the Monitor's team, associated firms or organizations, and any employee(s) assigned to the project, or proposed subcontractor(s), including current or former employment, contracts or grants with the City of Ferguson, the FPD, St. Louis County, the State of Missouri, or the United States and any involvement in the last eight years (whether paid or unpaid) with a claim or lawsuit by or against the City of Ferguson, the FPD, St. Louis County, the State of Missouri, or the United States or any of their officers, agents, or employees. Any close, familial, or business relationship with any of the mentioned entities, or their agents or employees, must be disclosed. Disclose whether any member of the team has been the proponent or subject of any complaint, claim, or lawsuit alleging misconduct. To the extent a conflict or potential bias exists, 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 team relies.

Please note that, for the duration of the monitorship, neither the Monitor nor any member of the Monitor's team shall be permitted to represent any individual or organization in any criminal or civil matter involving the United States Attorney's Office, Eastern District of Missouri, the City of Ferguson, the FPD, or St. Louis County, including any individual or organization designated as a witness, victim, defendant, subject, target, or person of interest.

The following shall be ineligible for selection as the Monitor or as a member of the Monitor's team: previous directors and chiefs of the FPD, previous prosecuting attorneys or judges of the municipal court, previous attorneys for the City, and individuals with past or pending legal claims against the City of Ferguson, the FPD, or St. Louis County.



#### F. Estimated Costs

Provide a cost estimate for this project based on the above Scope of Work and the requirements of the Consent Decree. **Please note that the Parties have agreed that monitoring shall not exceed \$1.25 million over the first five years, or \$350,000 for any single year.**

- Include a projected budget for all costs including but not limited to: hourly billing rates, travel, sub-consultant/contractor services, overhead, and supplies.
- Break down the different activities that members of the team will perform (e.g., policy review, technical assistance, training assessment, report writing, and/or incident review).
- Include a projected allocation of hourly commitments by each team member, broken down by the number of hours projected for both on-site and off-site work.
- Take into account the uncertainty of the duration of the Consent Decree and include both one-time or fixed costs that are expected regardless of the duration of the contract, and annual costs that are expected for each year the contract is in effect.

#### V. **INFORMATION RESPONSES TO BE PUBLIC**

The Parties have agreed to make public the applications submitted by all individuals and entities that respond 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.

Applications must be submitted to the City and Department of Justice simultaneously and **received by Friday, June 10, 2016, at 5:00 p.m. EST**. Applications must be submitted in **both** electronic form **and** hard copy to the individuals listed below. Hard copies should be sent by USPS Priority Mail or overnight carrier (e.g., FedEx, UPS, DHL) to ensure timely delivery. Please state “FPD Monitoring Application” in the email subject line and on the package containing the application.

For the United States Department of Justice:

Amy Senier  
Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
601 D Street, NW  
Washington, D.C. 20006  
202-514-2000  
[Amy.Senier@usdoj.gov](mailto:Amy.Senier@usdoj.gov)

For the City of Ferguson:

Jared L. Hasten  
Winston & Strawn LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
(312) 558-5600  
[jhasten@winston.com](mailto:jhasten@winston.com)

De'Carlton Seewood  
City Manager  
City of Ferguson  
110 Church Street  
Ferguson, Missouri 63135

The report of the United States' findings is available at:

[https://www.justice.gov/sites/default/files/crt/legacy/2015/03/04/ferguson\\_findings\\_3-4-15.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2015/03/04/ferguson_findings_3-4-15.pdf)

The United States' Complaint against the City is available at: <https://www.justice.gov/crt/case-document/united-states-v-city-ferguson-complaint>

The Consent Decree is available at: <https://www.justice.gov/crt/case-document/united-states-v-city-ferguson-consent-decree>