

REQUEST FOR INFORMATION

INDEPENDENT MONITOR

Negotiated Court Enforceable Settlement Agreement Regarding the Cleveland Division of Police December 1, 2022

I. DESCRIPTION

The United States Department of Justice and the City of Cleveland (“City”) (collectively “the Parties”) seek a new Monitor for a court-enforceable settlement agreement (“Consent Decree” or “Agreement”) addressing issues of constitutional policing. The Monitor will assist the United States District Court for the Northern District of Ohio (“Court”), the Parties, and the Cleveland community in assessing compliance with the Agreement in an independent and transparent manner. Once appointed by the Court, the Monitor will supervise a monitoring team that evaluates implementation, provides technical assistance, and issues public reports on the City’s compliance with the Agreement.

The Consent Decree has been in place since June 12, 2015. The Monitor recently resigned, and an Interim Monitor has been appointed until a new Monitor is selected. The Parties seek interested individuals, firms, or organizations to serve as Monitor. Interested candidates may propose to (a) retain the current team; (b) replace a portion of the current team; or (c) replace the entire current team.

In selecting a new Monitor, the Parties will follow the process and deadlines set by the Court’s Order dated November 17, 2022 to assess applicant submissions and provide final candidate(s) for the Court’s consideration. All applications are due no later than January 17, 2023. A copy of the Order is attached to this RFI.

THIS IS A REQUEST FOR INFORMATION ONLY. This Request is issued solely for information and planning purposes. It does not constitute a Request for Proposal (“RFP”) or a promise to issue an RFP in the future. This Request is not part of, and shall not be governed by, any formal municipal, state, or federal procurement process. Further, this Request does not commit the Parties to select an individual, firm, or organization to serve as the Monitor or a member of the Monitor’s team. The Parties may seek and solicit information regarding interested parties through means other than this Request, including targeted solicitation of applicants to respond to this RFI. 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 interested party’s expense.

II. BACKGROUND

On December 4, 2014, the Department of Justice announced its findings resulting from a civil investigation into use of force by the Cleveland Division of Police (“CDP”). The investigation was conducted pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (re-codified at 34 U.S.C. § 12601). The Department of Justice concluded that it had reasonable cause to believe that CDP engaged in a pattern or practice of unreasonable use of force. The City did not agree with the Department’s findings; nevertheless, the Parties entered into a Consent Decree to ensure constitutional policing. The Court entered an Order approving the Consent Decree on June 12, 2015. To acknowledge amendments to the City Charter (Sections 115 and 119) enacted by the voters of Cleveland on November 2, 2021, the Agreement was modified by agreement of the Parties and Court Order dated March 18, 2022. Since the inception of the Agreement, the Monitor and the United States have provided technical assistance to the City and CDP through regular meetings, other communications, and reviews of policies and training curricula. Most recently, the Monitor has begun a series of formal assessments of the City’s compliance with various requirements of the Consent Decree.

The Findings Letter outlining the Department’s investigation and conclusions, the Amended Settlement Agreement, the Monitor’s Eleventh Semiannual Report and the City’s Twelfth Status Report, and other related documents can be found on the following webpage: <http://www.clevelandpolicemonitor.net/resources-reports>. Current members of the monitoring team can be found at <http://www.clevelandpolicemonitor.net>.

III. MONITOR’S DUTIES AND RESPONSIBILITIES

The Agreement provides for a Monitor to assist the Court, the Parties, and the Cleveland community in assessing and assisting the City’s compliance with the terms of the Agreement. The Agreement specifies the duties and responsibilities of the Monitor, who will be subject to the supervision and orders of the Court. *See* Amended Settlement Agreement, Section XIV.

The Monitor is expected to provide objective, cost-effective, and thorough assessments of whether the terms of the Agreement are being met, and whether implementation of the Agreement is resulting in constitutional policing by the CDP and increased community trust of CDP. The Monitor will also continue to assist in compliance by offering technical assistance, issuing recommendations, and preparing public reports on the Agreement’s implementation. The Parties anticipate that the new Monitor will focus on compliance assessments, engaging with the Cleveland Community, and providing technical assistance as needed. The Monitor will not replace or assume the role and duties of the City or CDP, including the Chief of Police, or any other City official. The Chief of the CDP will always retain full authority to run the Division of Police in accordance with the laws of Cleveland.

IV. QUALIFICATIONS

Experience in the following areas may be useful, although lack of experience in any particular area will not disqualify a candidate.

- Law enforcement practices including use of force and force investigations, community policing, crisis intervention and de-escalation techniques, training, and search and seizure practices;
- Experience evaluating, developing, or implementing processes for supervisors and managers to oversee accountability in a large organization;
- Experience managing or overseeing law enforcement personnel;
- Monitoring, auditing, investigating, or otherwise reviewing performance of organizations;
- Evaluating organizational change and institutional reform, including applying qualitative and quantitative analyses to assess progress and performance;
- Experience monitoring and ensuring compliance with settlement agreements, consent decrees, or court orders;
- Working with government agencies, municipalities, collective bargaining units, elected officials, civilian oversight bodies, and community members interested in policing issues;
- Knowledge of Cleveland's diverse communities, including understanding of local issues and challenges facing those communities.
- Engaging with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing;
- Mediation and dispute resolution;
- Use of technology, analytical tools, information systems, and data collection to support and enhance law enforcement, including statistical analysis of law enforcement practices, internal and external benchmarking techniques, and regression analysis.
- Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony;
- Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies;
- Knowledge of adult learning techniques and other pedagogy for law enforcement training;
- Experience reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices; and
- Experience with municipal budgetary and fiscal issues.

V. SCOPE OF WORK

The following descriptions of the monitoring team's responsibilities and duties are illustrative and non-exclusive. Generally, the monitoring team is responsible for independently and objectively assessing and reporting on whether the requirements of the Decree are being implemented, and whether implementation is resulting in constitutional policing by and increased community trust in the Cleveland Division of Police. The Consent Decree in this case has been in place since June 12, 2015, and the previous Monitors have established methods of fulfilling the duties described below. The Parties are open to new methods to fulfill these duties, but they also seek to ensure consistency across monitorships and to implement the Consent Decree efficiently and effectively.

The monitoring team's duties include the following:

- Developing and implementing an organizational plan, including appropriate staffing and scheduling, for auditing and reviewing CDP's compliance with the requirements and purpose of the Decree;
- Developing methodologies for conducting reliable audits and reviews of CDP's compliance with the Decree;
- Recommending and reviewing metrics for assessing police practices and their effects during the pendency of the Decree;
- Conducting reliable assessments to determine whether the Agreement has resulted in Constitutional policing;
- Conducting, analyzing, and reporting on methodologically sound surveys of community members and police officers regarding CDP police practices;
- Providing or facilitating technical assistance to CDP, including recommending strategies to improve CDP's implementation of the Decree;
- Developing effective working relationships with the Cleveland community and civilian oversight entities, including the newly formed Community Police Commission, related to implementation of the Decree;
- Engaging in community outreach;
- Regularly communicating with the City and the United States regarding CDP's progress implementing the Decree, any obstacles to implementation, and as otherwise necessary to facilitate effective implementation;
- Regularly communicating with the Police Accountability Team regarding Consent Decree compliance.
- Regularly producing public reports on CDP's progress implementing the Decree and any obstacles to implementation;
- Reviewing use of force and misconduct investigations to assess their quality, reliability, and adherence to the requirements of the Decree;
- Reviewing and commenting on policies, training, and initiatives developed pursuant to the Decree;

- Maintaining all documents related to this project in a confidential manner as required by the Decree;
- Testifying in proceedings only as provided by the Decree;
- Making public statements only as permitted by the terms of the Decree; and
- Maintaining the highest ethical standards.

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

- Community Engagement and Building Trust
- Community and Problem-Oriented Policing
- Bias-Free Policing
- Use of Force
- Crisis Intervention
- Search and Seizure
- Accountability
- Transparency and Oversight
- Officer Assistance and Support
- Supervision
- Policies

VI. REQUESTED INFORMATION

The Parties request that interested individuals, firms, or organizations submit information to assist the Parties in identifying potential candidates to serve as Monitor. Interested individuals or firms may provide a resume and a letter of interest describing their current or recent experience relevant to the qualifications described above. Please describe any areas of expertise in which you may want to retain or obtain additional staff; including whether you propose to (a) retain the current team; (b) replace a portion of the current team; or (c) replace the entire current team.

If you propose to replace a portion or all of the current team members and have identified specific individuals or entities, including subcontractors and consultants, who will assist in fulfilling the duties and responsibilities of the Monitor, please include a brief summary of each team member's relevant background or experience and attach a resume. If the identities of the individuals or entities that would assist in performing the monitoring function are unknown at the present time, please state the areas of expertise that will be sought and the process that will be used to obtain the necessary services and assistance.

After receiving applicants' submissions, the Parties may request additional information. The Parties may also interview potential applicants.

Candidates considered for Monitor or as a member of the Monitor's team will be required to disclose all actual and potential conflicts of interest.

Following internal reviews and discussions between the Parties, to ensure community participation in the process, the Parties have agreed to conduct an open and public selection process to include public meetings between the final candidates and members of the Cleveland community and police affinity groups. After evaluating the candidates' performance during these sessions and conducting any follow-up interviews, the Parties will submit a final candidate for the Court's consideration no later than March 15, 2023.

VII. INFORMATION RESPONSE AS A PUBLIC RECORD

In keeping with a spirit of transparency, the Parties intend to share all or some of the submissions with the public, including possibly by making them available online. Additionally, under the laws of the State of Ohio, all parts of the information response, other than trade secret or proprietary information, may be considered a public record which, if properly requested, the City must make available to the requester for inspection and copying. Therefore, to protect trade secret or proprietary information, the responder should clearly mark each portion of each page—but only that portion of each page—of its information response that contains that information. The City will notify the responder if such information in its information response is requested, and will make every attempt to protect trade secret or proprietary information by citing to the applicable exemption in Ohio's Public Records Laws. Blanket marking of the entire information response as "proprietary" or "trade secret" is not acceptable and will not protect the entire response unless each part of the entire response is in fact trade secret or proprietary information. The City is not obligated to protect information that is obviously not a trade secret, obviously not proprietary, and obviously public, even if labeled as such. Upon submission of an information response that contains clearly marked trade secret or proprietary information, the responder is agreeing to defend and indemnify the City against any lawsuit or claim that the City improperly withheld a public record based upon the responder marking it as a trade secret or proprietary information.

Letters of interest should be submitted as soon as possible, but no later than January 17, 2021, in electronic format (preferably pdf) to the Parties as follows:

For the United States Department of Justice:

Steven J. Paffilas
Assistant U.S. Attorney
Chief, Civil Division
U.S. Attorney's Office
Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113
Steven.Paffilas@usdoj.gov

Timothy Mygatt
Deputy Chief
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Timothy.Mygatt@usdoj.gov

For the City of Cleveland:

Mark Griffin
Director of Law
City of Cleveland
Department of Law
601 Lakeside Avenue, Suite 106
Cleveland, Ohio 44114
MGriffin@clevelandohio.gov

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No.: 1:15 CV 1046
)	
Plaintiff)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
CITY OF CLEVELAND,)	
)	
Defendant)	<u>ORDER</u>

As the court previously ordered, Ayesha Bell Hardaway shall serve as Interim Monitor, effective on the date of Monitor Hassan Aden’s resignation, until the Monitor position is filled. The parties have now recommended a process to the court for filling the Monitor position on an ongoing basis.

After reviewing the recommendations of the parties, the court hereby adopts the following process for the permanent appointment of a Monitor, following the resignation of Hassan Aden:

- The parties shall issue a limited Request for Information (“RFI”), inviting respondents to propose a new lead Monitor that either: (a) retains the current team under a new lead Monitor; (b) replaces a portion of the current team with the new lead Monitor’s selections; or (c) replaces the lead Monitor and the entire current team.
- The parties shall jointly draft the RFI for public release no later than December 1, 2022, and shall set a response date of no later than January 17, 2023.
- From January 17 to February 17, 2023, the parties shall internally review the applicants, conduct internal interviews of selected applicants, discuss the merits of the various applicants, and hold conversations regarding the potential for realignment of team members among respondents.

- The parties shall announce final candidates by no later than February 28, 2023. Following that announcement, the parties anticipate facilitating public meetings between the candidates and members of the Cleveland community and police affinity groups. After evaluating the candidates' performance during these sessions and conducting any follow-up interviews, the parties will submit a final candidate for the court's consideration no later than March 15, 2023. In the event that the parties do not agree on a single candidate for the court's consideration, the parties will submit their preferred option for the court's consideration.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

November 17, 2022