

# City of Baltimore Police Department

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Response to RFA for Independent Monitor Services

June 8, 2017



Roscoe C. Howard, Jr.  
Barnes & Thornburg LLP  
1717 Pennsylvania Avenue, NW  
Suite 500  
Washington, DC 20006-4623

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

Erin Sher Smyth  
Purchasing Agent  
Baltimore City  
231 E. Baltimore Street, 3<sup>rd</sup> Floor  
Baltimore, MD 21202

RE: Request for Applications for Police Department of Baltimore City Independent Monitor

Thank you for allowing Barnes & Thornburg to submit an application to act as the independent monitor to assess and report on implementation of the April 7, 2017, Consent Decree regarding the Police Department of Baltimore City (BPD).

Enclosed, please find responses to the RFA detailing the qualifications of our proposed Monitoring Team and our proposed initial budget for services rendered. As you will note, we have included three former U.S. Attorneys on the proposed team, each with significant experience in law enforcement.

Please note that while the Monitoring Team attorneys have confirmed there are no potential conflicts of interest and will work to ensure that no conflicts of interest develop during the term of the monitoring as prescribed by the RFA, Barnes & Thornburg has a robust national practice with practitioners who are not part of the Monitoring Team and who may, from time to time, be adverse to certain entities covered by the RFA, including the U.S. Department of Justice, Civil Rights Division. Our understanding based on the clarifications provided within the RFA is that the preclusion on potential conflicts of interest applies only to those legal personnel assigned to the Monitoring Team and will not be imputed to others in the firm. It is with this understanding and condition that the members of the proposed Monitoring Team, and only those members, agree to be bound by Section 39 of the RFA and Section J, Paragraphs 476-479 (including clarifications noted in the Joint Motion of Errata) of the Consent Decree for the duration of the monitorship.

Should you have any questions or need any additional information, please contact me directly at 202-371-6378.

Very truly yours,



Roscoe C. Howard, Jr.

# Table of Contents

Executive Summary .....	Page 1
Scope of Work .....	Page 3
Personnel and Current Time Commitments.....	Page 5
Qualifications.....	Page 8
Prior Experience and References .....	Page 14
Budget .....	Page 17
Collaboration and Cost Effectiveness .....	Page 18
Potential Conflicts of Interest` .....	Page 20
Phase 1: Early Assessment & Development of Monitor Plan Budget	Exhibit A

## IV. 32. Executive Summary

### Proposed Team and Relevant Experience

The members of the proposed Monitoring Team from Barnes & Thornburg hail from all across the nation. While the majority of the team members practice in Washington, D.C., they have come to practice in this region from Virginia, New York, Texas, and the Midwest. In addition, the team is not only ethnically diverse, but includes gender diversity as well. Proposed team members come from a variety of socio-economic backgrounds and all have worked with and volunteered within the communities in which they have resided. Several members of the proposed Monitoring Team – Roscoe Howard, Leasa Woods Anderson, Meena Sinfelt and Jennifer Wylie – have worked together for more than a decade.

A brief bio and description of relevant experience for each team member is found below:

**Roscoe Howard** is a partner in our firm's Washington, D.C., office. Having tried more than 100 cases as a federal prosecutor, Roscoe has experience in handling investigative matters initiated by the Department of Justice, Securities and Exchange Commission, and many other law enforcement agencies. His defense experience of corporate and individual clients spans from testimony before Congress to international investigations, and matters in state and federal courts nationwide. Roscoe is currently engaged in two independent monitorships, the details of which are outlined in this response. He served as the U.S. Attorney for the District of Columbia from 2001-2004, by appointment of President George W. Bush. In this role, Roscoe managed and administered the nation's largest U.S. Attorney's Office and collaborated heavily with law enforcement officials to address the needs of the community. Roscoe is an active member of the Washington Lawyers Committee for Civil Rights and Urban Affairs.

**Michael Battle** is a partner in our firm's Washington, D.C., office. Michael has held several distinguished public service posts, including serving as Director of the U.S. Department of Justice's Executive Office for U.S. Attorneys, where he oversaw all 93 U.S. Attorneys and acted as a liaison with other federal agencies. Previously, Michael had served as U.S. Attorney for the Western District of New York from 2002-2005 and as one of the first three federal defenders in the Western District of New York. He also spent six years as a judge on the Erie County (New York) Family Court bench, during which he decided hundreds of family law cases.

**Patrick Miles** is of counsel in our firm's Grand Rapids, Michigan, office. He was the U.S. Attorney for the Western District of Michigan from 2012 to 2017, by appointment of President Barack Obama. In this role, Pat combated gang violence, child exploitation, financial fraud and organized crime, including racketeering, firearm and drug distribution, among other civil and criminal matters. He also focused on improving community relations with law enforcement, aiding former prisoners with reentry, and assisting veterans with employment opportunities.

**Leasa Woods Anderson** is of counsel in our firm's Washington, D.C., office. In this capacity, she counsels individuals and corporate entities, in a variety of different matters to include investigations by the DOJ, Department of State, Congress, SEC, and the Offices of Inspector General for various federal agencies. Leasa also assists clients with developing internal compliance programs to include company-wide implementation of the programs and training for all levels of personnel. In addition, Leasa counsels clients in simple breach of contract actions, as well as complex commercial litigation matters. In addition to her work with Barnes & Thornburg, Leasa is an active Fellow with the Leadership Council on Legal Diversity and through this organization participates in community service projects, mentoring programs, and networking events to increase the diversity of the legal profession.

**Meena Sinfelt** is of counsel in our firm's Washington, D.C., office. Meena represents clients in government investigations by the Department of Justice (DOJ), Department of State, Department of Treasury, Congressional inquiries, the Inspector General for various federal agencies, qui tam actions, FCPA matters, and tort and contract disputes. She also counsels clients on the Federal

Corrupt Practices Act (FCPA), Office of Foreign Assets Control (OFAC) and international export regulations and antitrust compliance matters. Meena has substantial experience conducting internal investigations and witness preparation for grand jury appearances, federal agency proffers and depositions. She has experience handling cross-border electronic discovery issues and has managed all phases of discovery for criminal and civil matters.

**David Frazee** is an associate in our firm's Washington, D.C., office. David's practice primarily concentrates on white collar crime defense, anti-trust litigation, corporate compliance, products liability and other complex business litigation. He previously worked as a law clerk in the Monroe Circuit Court for the Hon. Mary Ellen Diekoff, Hon. Teresa Harper., Hon. Marc Kellams and Hon. Kenneth Todd and as an intern for the Compliance Office in the Athletics Department of a major university. Additionally, David is on the board of Indiana Legal Services, a nonprofit law firm that provides free civil legal assistance to eligible low-income people throughout the state of Indiana. In this role, he provides pro bono work to those with hearing impairments, limb deficiencies and others with special needs.

**Jennifer Wylie** is a paralegal in our firm's Washington, D.C., office. Jennifer has assisted with federal criminal trials, internal investigations and the representation of immigrants in Immigration Court. Her experience ranges from researching case law and analyzing pleadings to drafting motions and notices. Jennifer has managed document production, performed document review and created privilege logs; completed on-site reviews of clients' records/documents independently; drafted summary memos for clients; and attended federal advisory committee meetings.

## Proposed Budget

As a firm, we take pride in providing high quality legal services on time and on budget. In any large engagement we find it paramount to address specific cost concerns and scope of engagement early in the project. In this context, providing a budget for an annual period without having direct communication and a period of development would be against what we believe to be paramount to our firm culture. In our response to a proposed budget, we have outlined what we will refer to as "Early Assessment & Development of Monitor Plan". This budget details the first three (3) months of expected expenses and tasks. Once this phase is completed and properly scoped, we welcome the opportunity to provide a more thorough budget with realistic cost estimates. For further information on the proposed budget, please see the Budget and Collaboration & Cost Effectiveness Sections *infra*.

## IV. 33. Scope of Work

In response to the requirements outlined in Paragraphs 8-27 of the Request for Applications, Barnes & Thornburg submits the following description of our plan to meet these requirements.

The Monitoring Team's goal is to foster a sense of trust, transparency and accountability within the Baltimore community and amongst all stake holders.

We are offering a deep, multi-cultural team of attorneys with extensive criminal justice experience. Roscoe Howard would lead the engagement, as the Monitor, and devote a significant amount of his time to assisting the BPD and the City of Baltimore to ensure compliance with all material aspects of the Consent Decree. Roscoe and his team are able to devote a substantial amount of time to take the necessary steps to develop a robust understanding of BPD's efforts since 2015 to ameliorate its pattern and practice of conduct that violates Constitutional standards with regards to its policing and oversight of the Baltimore community. (Consent Decree ¶¶ 3-9).

As Monitor, Roscoe Howard will bring a depth of knowledge, experience and leadership that will be necessary to bring all parts of a fractured system together to accomplish the goals of the Consent Decree. To fulfill the role of Monitor, Roscoe will draw upon the experience gained in his 35 year legal career which includes current roles on two independent monitorship teams preceded by a lengthy career with the Department of Justice (which included his role as U.S. Attorney for the District of Columbia). Details of some of Roscoe's specific assignments and projects are outlined in the Prior Experience and References section of this response.

As Deputy Monitor, Michael Battle brings a balanced perspective to uncomfortable but necessary change and years of experience in dispute resolution. Like Roscoe, Michael will draw upon his previous roles which include acting as the U.S. Attorney for the Western District of New York and the Director of the Executive Office for U.S. Attorneys. Specific details on projects Michael was a part of during these tenures and others are outlined in the Prior Experience and References section.

The presence of these former U.S. Attorneys gives our team a depth of high-level, devoted fire-power that few firms can match. Each of these lawyers (as well as a number of the other lawyers on our roster) has made a career of managing large, complex matters, even when it means devoting time and attention to multiple matters at once. Indeed, as but one example, as the United States Attorney in Washington D.C., Roscoe Howard oversaw the investigation into the September 11th attacks, the Anthrax scare, and the D.C. snipers simultaneously.

The Monitor and Deputy Monitor will be supported by a team of attorneys and professionals, to include Patrick Miles, the former U.S. Attorney for the Western District of Michigan with many years of experience managing large, complex matters with appropriate sensitivities to working with individuals in high-stress environments and under government scrutiny.

If selected, the Monitoring Team will faithfully carry out the directives of the Consent Decree in order to assist the BPD in achieving practices that are consistent with statutory and constitutional rights, treat all persons with dignity and respect and promotes the safety of the BPD officers and the public at-large. Based on the Consent Decree, the Monitoring Team has identified four main categories to address through various methods: 1) Community; 2) Basic Legal Standards; 3) Training & Discipline; and 4) Technology. The first area of concentration, Community, includes assessment of efforts to break down barriers and build trust between the community and the BPD including, but not limited to, official and voluntary interaction with the community, non-official involvement in the community, interaction with youth in their schools and communities, and other preventative measures. As the U.S. Attorney in the District of Columbia, Roscoe Howard instituted mandatory community meetings in each Ward of D.C. during which his prosecutors

made themselves available to meet with members of the community informally. This open dialogue promotes familiarity, trust and a recognition of the common goal. This cannot be accomplished without spending time together.

In addition to the mandatory, quarterly community meetings required by the Consent Decree, the Monitoring Team proposes to hold monthly community meetings covering the various districts in Baltimore with emphasis on districts that are particularly impacted by the proposed BPD reforms. The Monitoring Team also proposes to meet with key stakeholders in the Baltimore community as part of its efforts to evaluate BPD's practices and procedures. The Monitoring Team will also ensure that its work compliments and works in tandem with the efforts of the Community Oversight Task Force so as to make best use of all resources. Additionally, the Monitor intends to engage a third party to assist in the development, collection and analysis of the annual Community Survey and envisions working with local community partners, such as the University of Maryland and other non-profit, community-based organizations that already have the tools, framework and established history to conduct such a wide-scale survey.

The second area of concentration relates to review and assessment of the BPD's policies and procedures to ensure basic legal standards are followed. This includes, but is not limited to, review of written policies and procedures related to stops, searches, arrests, warrants, transportation of suspects in custody, and use of force; interviews with local legal counsel and review of court records; interviews with local community organizations providing support and legal services to at-risk populations. (Consent Decree, Sec. IV, X, IV, VII). In this area, the Monitoring Team will draw on its substantial experience working with defendants in the criminal justice system, law enforcement officers working investigations and cases and the courts to review and assess BPD's efforts and to make recommendations regarding best practices and areas of improvement.

The third area of concentration, Training and Discipline, focuses on arming the officers and employees of the BPD with the necessary knowledge and tools to be successful at their jobs. The Monitoring Team's experience has shown that real change, particularly in the culture of an organization, can only be accomplished by a unified message from the top down. Accordingly, the Monitoring Team will put emphasis on meeting with supervisors and decision makers regarding training and discipline efforts. Such efforts by the Monitoring Team will include, but are not limited to, reviewing written training protocols, interviewing trainers and trainees, reviewing reports of arrests, stops, and prosecutions; attending ride-alongs with local BPD Officers, and observation of live-training. Simultaneously the Monitoring Team will review discipline procedures as written and implemented; interview supervisors and other disciplinary personnel to assess effectiveness of protocols and adequate resources; and conduct interviews and sampling of reviews of disciplinary matters and records.

Finally, the Monitoring Team will assess the BPD's use of technology to achieve material compliance with the Consent Decree and make recommendations where appropriate. Based on its past experiences and leveraging its relationships in the Washington, D.C. Metro area, the Monitoring Team proposes to identify additional uses and implementation of technology which are fiscally advantageous and further the BPD's goals and enhance its ability to successfully achieve its mandate under the Consent Decree.

## IV. 34. Personnel and Current Time Commitments

### Monitoring Team

The individuals who would comprise the Monitoring Team (RFA ¶34(a)) include:

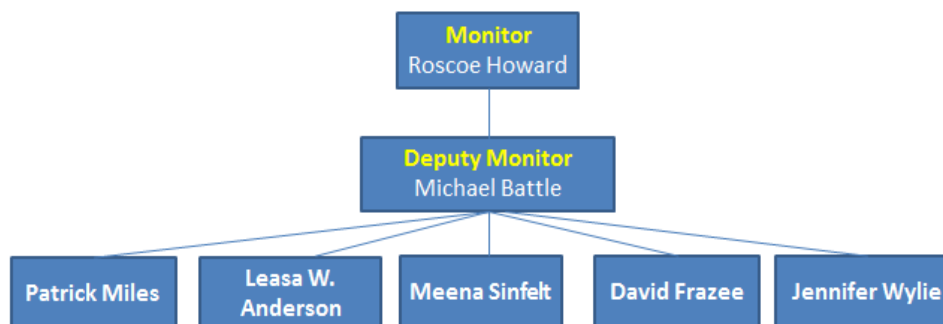
- Roscoe C. Howard, Jr., Partner, Washington, D.C.
- Michael Battle, Partner, Washington, D.C.
- Patrick Miles, Jr., Partner, Grand Rapids, Michigan
- Leasa Woods Anderson, Of Counsel, Washington, D.C.
- Meena Sinfelt, Of Counsel, Washington, D.C.
- David Frazee, Associate, Washington, D.C.
- Jennifer Wylie, Paralegal, Washington, D.C.

Please note that the Monitoring Team believes it is the most efficient use of the City's limited resources to identify and partner with a third party organization (likely a community coalition) to disseminate, collect and analyze the annual Community Survey data. The Monitor envisions partnering with a community coalition that already has processes, established framework and the expertise in surveying communities regarding social justice issues. The Monitor has not included a specific community organization in this proposal because it believes that such a proposition would be superficial and fail to take into consideration the potential that the Monitor will be able to leverage existing infrastructure within the Parties' organizations (or affiliates). Pursuant to Paragraph 27 of the RFA, the Monitoring Team proposes, as part of its Monitor Plan, to assess and evaluate the current offerings of the BPD and other local partners to assist in the quantitative analysis of BPD's efforts to materially comply with the Consent Decree, in order to better assess the type and level of assistance needed from a third party in order to effectively implement the annual Community Survey.

Please see the **Qualifications** section of this response which includes detailed descriptions of the background and work product for the attorneys and paraprofessionals we propose to be on this Monitoring Team as requested in RFA ¶34(b).

### Internal Organization and Areas of Responsibility

The organization of the Monitoring Team will be as follows:



The Monitor and Deputy Monitor will be responsible for all public appearances, attend all meetings with the BPD, the DOJ, and the community, and participate in assessment interviews as appropriate. If the Monitor is not available to address any particular issues that arise, he will



delegate authority to act in his absence to the Deputy Monitor, Michael Battle, or Patrick Miles who will serve as a third line substitute, if needed. Most of the members of the Monitoring Team have worked closely with each other for a decade plus. During this time, the members of the team have developed a true, team-based approach to all legal representations in which any member of the team could step-in seamlessly for a missing member if needed and without any significant delay to the client or customer. The amount of time that this Team has spent working together in high stress situations has engendered an immeasurable amount of trust amongst the team members and has made the team function in a highly efficient and organized manner. For example, the Monitoring Team proposes to set up qualitative interviews, meetings and reviews with a 2-3 person grouping from the Monitor Team. Because this Monitor Team has worked together for such a long time, they have standard practices and procedures that transcend any individual preferences and allow for uniform collection of data and notes regardless of the specific members of the Monitoring Team conducting the qualitative analysis. We believe this is not only an efficient use of monetary resources but also of dividing the team up to accomplish more tasks without sacrificing quality.

## Current Projects and Commitments

Current and Forecasted (2017-2018) Monitoring Team Member Commitments (RFA ¶ 34 (d) include:

In general, attorneys at Barnes & Thornburg bill 2000 hours in a calendar year. None of the proposed members of the Monitoring Team currently have time commitments that would fulfill this annual goal which means that each of the members have adequate time to devote to the various responsibilities that will be undertaken by the Monitor if appointed by the Court.

**Roscoe Howard** - time commitments for 2017 and early 2018 are fluid and are not at this time restricted by trials or extended travel in other cases. Roscoe's current ongoing case/client work and public speaking commitments would not prohibit his ability to take on the role of monitor.

**Michael Battle** – no trials scheduled for the remainder of 2017. Michael may have a trial involving a civil matter in the Bronx, New York, during 2018-2019. If this civil matter continues on its current schedule, Michael will be involved in discovery and depositions commencing in September 2017, followed by extended motions. Michael will also continue to perform as lead counsel in relation to matters of interest related to clients being reviewed/investigated and possibly charged criminally by the DOJ & SEC.

**Patrick Miles** – currently has no trials scheduled for 2017 or 2018 nor any significant projects planned that would create time constraints.

**Leasa Woods Anderson** – currently has no trials scheduled for 2017 or 2018. Leasa can commit the majority of her time to this matter.

**Meena Sinfelt** – currently has two trials scheduled for 2017 and none for 2018. In October 2017, Meena expects to be trying a criminal case which will likely commence and be completed in the same month. Meena also anticipates a two- to three-day civil trial in Washington, D.C., in November or December. Meena will also continue to perform as lead counsel in relation to matters of interest related to clients being reviewed/investigated and possibly charged criminally by the DOJ.

**David Frazee** - currently has no trials set for 2017. In 2018, one criminal trial is scheduled which will be completed in March 2018 and on which David plays a supporting role.

**Jennifer Wylie** – provides support to the attorney team on all cases and investigations. Jennifer currently has two trials scheduled for 2017 and 2018. In 2017, one criminal trial will likely commence and be completed in October and the other trial, a civil case, will last no longer than three days and is likely to occur in November or December.

## MBE/WBE Certification and Team Diversity

Team members' status as a small, local, woman-owned, or minority-owned business (RFA ¶ 34(e)).

Barnes & Thornburg is not certified as a MBE/WBE/VBE. We are however a full-service firm with a clear and defined commitment to diversity and inclusive engagement. At Barnes & Thornburg, the business of diversity and inclusion is aligned with the business of the firm at Barnes & Thornburg and, indeed, reflects the firm's long-standing core values. And our mission is simple: we hire great talent from all backgrounds and then work together as a team to deliberately position them to win. Our proposed City of Baltimore Monitorship team embodies this commitment, reflecting a diverse group of lead and supporting attorneys, all qualified and well-suited to work actively on this project. If we are chosen to partner with you in this area, please know that each will play a key role in servicing the City of Baltimore. Specifically, we have included a team that is 86% diverse.

## IV. 35. Qualifications

Qualifications, background and experience for our proposed Monitorship Team include the following:

### Roscoe Howard



- Presently acting as **Monitor for Devos Ltd, d/b/a Guaranteed Returns**. Scope of work spans 1 – 4 years as prescribed by Administrative DLA Agreement and includes review, assessment and evaluation of duties addressing company's ethical tone, obligations to implementation of internal controls, corporate compliance and business conduct programs, record keeping, financial reporting policies and procedures, and employee training. Ongoing assessments as deemed appropriate with quarterly reviews. (subparagraph 26 (a))
- Presently working on the Olympus Monitorship. In this role, Roscoe was involved in the initial client site visits for assessment of scope of work, team strategy development and client interviews in the U.S. and Mexico. (subparagraph 26 (a))
- U.S. Attorney for the District of Columbia, 2001-2004.**
  - Served as the chief federal prosecutor for the nation's capital; duties included managing and administering the nation's largest U.S. Attorney's Office, which has 360 prosecutors and is the only U.S. Attorney's Office with responsibility for prosecuting local criminal violations in addition to enforcing the federal laws. Consisting of seven divisions, Administrative, Appellate, Civil, Criminal, Special Proceedings, Superior Court and the Victim Witness Assistance Unit, the DC office handled a large volume of prominent international and local cases to include:
    - o Anthrax attacks occurring just after September 11, 2001;
    - o the indictment of multiple defendants in the defrauding of the Washington Teacher's Union of 4.6 million dollars;
    - o the 2003 bombing of the Marriott Hotel in Jakarta, Indonesia;
    - o the May 2002 conviction of Joseph Mesa, Jr. for the murders of two students at Gallaudet University, the nation's only University for the deaf; and
    - o the investigation into the 2002 murder of the Wall Street Journal reporter killed in Pakistan.
  - Collaboration with a wide variety of law enforcement officials to include the Metropolitan Police Department, the U.S. Marshalls Service, the Federal Bureau of Investigations, the U.S. Parks Police, and various county police departments, to name a few, was necessary to fully address crime and violence in the District and surrounding areas. Weekly meetings with the Chiefs, Deputy Chiefs and District Commanders to coordinate investigations, set priorities and handle concerns between the offices were a necessity. MPD sent newly minted Detectives to the offices to train with the U.S. Attorney's Offices Specially Designated Service Officers to learn prosecutorial needs and protocols under the supervision of the head of that Division, a former MPD Homicide Detective who was Chief of Security for the US Attorney's Office. Many programs were administered through the USAO-DC office, to include:
    - o Implementation of the Weed-And-Seed program, a program designed to create and build partnerships between police and the local communities aimed at weeding out crime (criminal eradication) and seeding the community with positive things that would grow such as housing, education, and after-school activities for children and security for adults and children in challenged neighborhoods.

- Implementation of Community Prosecution programs, a pro-active approach to solving community and neighborhood problems by connecting with the residents through outreach and town hall meetings, listening to their concerns, identifying and solving problems before residents are victimized by crime.
- Administration of the Victims Witness Unit addressing the needs of victims and witnesses involved with the criminal justice system.
- Coordinated the movement and operations of the 38 Federal and Municipal police and law enforcement agencies that operated in the District of Columbia with overlapping jurisdictions.
- **Attorney General's Advisory Committee Member**, 2001-2004. Members provide advice and consultation on prosecution, investigations and Department of Justice policy. The Attorney General, the Deputy Attorney General, the Assistant Attorney General for the Criminal Division and the Associate Attorney General in the Civil Division, as well as their staffs and the heads of various Department of Justice agencies participate in the Committee. The AGAC provided advice and counsel on:
  - the development of the Department's Thompson Memorandum;
  - the drafting of the U.S.A. Patriot Act
  - review of agencies and their jurisdictions that were acquired and lost in the development of the Department of Homeland Security, and
  - comment on the Department of Justice passage of the Sarbanes Oxley corporate reform bill.

As the United States Attorney for the District of Columbia, Roscoe maintained a permanent seat on the Committee, although the make-up of the AGAC revolved every six months, to involve different United States Attorneys.

In this role, Roscoe fulfilled all subparagraph 26 qualifications.

- **Associate Independent Counsel, Office of Independent Counsel, In Re Secretary of Agriculture A. Michael Espy** (The Honorable Donald C. Smaltz), Alexandria, Virginia, June 1997 - May 1998. On leave from the University of Kansas School of Law for the academic year 1997-1998 to serve as lead trial counsel in the fraud, false statements and gratuities investigation and trial of former Secretary of Agriculture A. Michael Espy. Returned to the University of Kansas before the commencement of the trial. (subparagraph 26 (a))
- **Associate Independent Counsel, Office of Independent Counsel, In Re Secretary of H.U.D. Samuel R. Pierce** (The Honorable Arlin M. Adams), Washington, D.C., 1991-1994. Served as a lead prosecutor for the Office of Independent Counsel (OIC) investigating questionable programs, officials and activities at the U.S. Department of Housing and Urban Development under former Secretary Samuel R. Pierce, Jr. Accomplishments included serving as lead trial counsel on the first case brought by the OIC, a successful joint prosecution by the OIC and the U.S. Department of Justice, and negotiating the guilty pleas of several investigation targets. (subparagraph 26 ( l))
- **Assistant U.S. Attorney in D.C. and in the Eastern District of Virginia**
  - Assistant United States Attorney, United States Attorney's Office for the Eastern District of Virginia, Richmond Division, 1989-1991; Alexandria Division, 1987-1989. In the Richmond Division, handled cases arising from the General Crimes Section, including felony narcotics cases, fraud cases, obstruction of justice cases, public corruption cases, and other criminal violations under the United States Code. Argued before the United States Court of Appeals for the Fourth Circuit on appeals of those cases. Served as Richmond Division Coordinator for the Organized Crime Drug Enforcement Task Force (OCDETF). In the Alexandria Division, assigned to General Crimes Section handling business and consumer fraud cases, credit card fraud cases, bank robberies, felony

narcotics cases and other federal criminal offenses. Served as Chief, Lorton Task Force, which investigated and prosecuted cases arising at a local prison. (subparagraphs 26 (a, b, c, l,n))

- Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 1984-1987. Assigned to the Chronic Offender Unit, Criminal Trial Division, Superior Court (January 1987-July 1987); Felony Trial Division, Superior Court (May 1986-January 1987); Grand Jury Division, Superior Court (September 1985-May 1986); Misdemeanor Trial Division, Superior Court (March 1985-September 1985); Appellate Division (August 1984-March 1985).

## Michael Battle



- **U.S. Attorney for the Western District of New York (2002-2005)**  
Implementation of the Weed-And-Seed program, a program designed to create and build partnerships between police and the local communities aimed at weeding out crime (criminal eradication) and seeding the community with positive things that would grow such as housing, education, and after-school activities for children and security for adults and children in challenged neighborhoods. (subparagraphs (b, c, f, h, n, o, p, q))
  - Spearheaded additional programs aimed at creating relationships and collaboration between police (and in some cases the private sector) with community partners including
    - o Project Exile Program - a firearms reduction program
    - o Project Safe Neighborhoods (subparagraph (b))
  - Attorney General's Advisory Committee and assigned to the Advisory Committee's U.S. Sentencing Guidelines subcommittee. Within the subcommittee, members dealt with and resolved issues related to the appropriate application of the guidelines toward sentencing and prisoner reform. (subparagraph 26 (b))
- **Director of the Executive Office for U.S. Attorneys** – Administrative responsibility for all 9 United States Attorney's Offices nationwide. Additionally responsible for an internal staff of 300 for such administrative issues as the budgets of each US Attorney's Office, staffing, security, legal policy, and government contracting.
- **Member of the White House / DOJ federal prisoner re-entry program**, during which the office examined solutions towards policies of assisting federal inmates on being reintegrated in their communities after being released from federal prisons. (subparagraphs 26 (c, f, o, p,q))
- **Assistant U.S. Attorney for the Western District of New York** – worked closely with law enforcement at every level. As a prosecutor, Michael monitored the activity of law enforcement toward compliance with the Constitution and complete recognition of the rights of the citizenry. (subparagraph 26 (b, o))
- **Judgeship** – Served six years as a judge on the Erie County (New York) Family Court bench (subparagraphs 26(l))
- **Public Defender** – Initiated a midnight basketball league in Buffalo, New York aimed at helping underprivileged youths in the community gain mentorship.
- **Attorney** – Negotiated tenant's rights in Harlem, New York (subparagraph 26 (r))
- **Community Organizations Experience** – Michael was a member of a local organization, Leadership Buffalo, which took civic and private individuals who were in leadership positions and exposed them to community initiatives thru the government, health care, arts and sciences, criminal justice, and education areas. Michael was in charge of a committee which exposed the group to local criminal justice programs and involved talking members to Attica Prison for tours and on police ride-alongs. (subparagraphs 26(h, i))

- Michael was also involved with **Vision for Tomorrow**, an organization which strived to learn about what civic areas were of most importance to its constituents in Erie and Niagara Counties. The effort involved thoughts on interviews which led to a presentation to local leaders. (subparagraph 26(g))

### Patrick Miles



- **U.S. Attorney for the Western District of Michigan** (2012-2017) Combated gang violence, child exploitation, financial fraud and organized crime, including racketeering, firearm and drug distribution, among other civil and criminal matters. (subparagraph 26 (b, c, f, h, l, p, q ))
- He also focused on improving community relations with law enforcement, aiding former prisoners with reentry, and assisting veterans with employment opportunities. (subparagraph 26 (b, f, h, l, p, q ))
- Significant experience with law enforcement investigators as well as law enforcement community relations.
- Focuses practice on corporate compliance, investigations, monitorships, and business transactions

### Meena Sinfelt



- As a **law clerk for the U.S. Marshal Service**, Office of General Counsel, Meena gained significant experience reviewing and assessing prisoner claims involving torts, asset forfeiture, and other constitutional issues as described in subparagraph 26(c). During this time Meena also reviewed claims filed under the Federal Tort Claims Act and made recommendations related to agency liability. This included the review and analysis of legal issues involving law enforcement practices, including use of force and force investigations; practices for transporting prisoners, conducting frisks, searches, and seizures; practices for conducting and reviewing arrests; and investigation, and adjudication of complaints of officer misconduct as described in subparagraph 26(b).
- Substantial experience conducting internal investigations and witness preparation for grand jury appearances, federal agency proffers and depositions which involves the use of technology and information systems, including data collection and management, and analytical tools as described in subparagraph 26(k).
- Assists clients in developing internal compliance programs to include company-wide implementation of the programs and internal metrics to test effectiveness of compliance programs, as well as training for all levels of personnel as described in subparagraph 26(k).
- Meena's years of practice have made her intimately familiar with federal, state and local laws as described in subparagraph 26(f). Furthermore, Meena has extensive experience managing personnel and keeping working teams on budget using Barnes & Thornburg's real-time, budget tracking software as described in subparagraph 26(q).
- Meena was also a legal intern with the Montgomery County (Ohio) Public Defender's Office during which she defended juveniles charged with juvenile and domestic related crimes including assault, truancy and grand theft. Meena also gained experience preparing for trial through victim and witness interviews, litigation pre-trial motions including suppression, and participation in negotiation of favorable pleas.
- Prior to attending law school, Meena worked with grassroots community organizations around the country building safer, drug-free communities. During her tenure with the Community Anti-Drug Coalitions of America (CADCA), Meena conducted nationwide trainings on advocacy and lobbying regulations for non-profit organizations. Meena also built and

maintained key relationships with local, state, and federal government officials and coordinated community efforts with community leaders and local law enforcement officials and members of the National Guard Counterdrug Task Force.

- In a *pro bono* capacity, Meena has tried and won cases for indigent clients seeking asylum in the United States to avoid persecution in their home country on account of the client's religious beliefs or social group status.
- Meena has also successfully prevented the removal of a client who was granted refugee status in the United States as a Lost Boy of Sudan and suffered from serious and pro-longed mental health issues.
- Meena also currently serves on the Legal Advisory Committee to the Capital Area Immigrants' Rights (CAIR) Coalition.
- In a *pro bono* capacity, Meena represented petitioners seeking civil protection orders and petitions seeking child custody as related to high-risk youth.

### Leasa Woods Anderson



- Presently working with the Monitor for Devos Ltd., d/b/a/Guaranteed Returns which includes writing complex reports for dissemination to diverse audiences as described in subparagraph 26(m).
- Represents clients in investigations by the DOJ, Department of State, Congress, SEC, and the Offices of Inspector General for various federal agencies which involves the use of technology and information systems, including data collection and management, and analytical tools as described in subparagraph 26(k).
- Extensive experience in witness preparation for depositions and federal agency interviews, and management of all phases of discovery for criminal and civil matters which involves the use of technology and information systems, including data collection and management, and analytical tools as described in subparagraph 26(k).
- Assists clients in developing internal compliance programs to include company-wide implementation of the programs as well as training for all levels of personnel
- As a law clerk in the Eastern District of Virginia, Leasa routinely assessed legal sufficiency and compliance with constitutional and other legal requirements as described in subparagraph 26(c). This included the review and analysis of legal issues involving law enforcement practices, including 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; and investigation, and adjudication of complaints of officer misconduct as described in subparagraph 26(b).
- Leasa's 12 years of practice have made her intimately familiar with federal, state and local laws as described in subparagraph 26(f) and she completes projects within anticipated deadlines and budgets as described in subparagraph 26(q).

## David Frazee



- Law clerk to four criminal court judges on various criminal matters, including cases involving claims of police brutality.
- Represented clients in investigations by the DOJ, SEC, and the Offices of Inspector General.
- Experience working directly with state and local government agencies in matters involving litigation as well as drafting statutes and regulations applicable to the agency.
- Experience interviewing and preparing witnesses in document intensive civil and criminal matters.

## Jennifer Wylie



- Presently working with the Monitor for Devos Ltd., d/b/a Guaranteed Returns which includes assisting with interviews, preparing initial draft report and note taking.
- Experience assisting on internal investigations.
- Assists in representation of clients investigations by the DOJ, Congress, and the Office of Inspector General for various federal agencies.
- Extensive experience in assisting in witness preparation for depositions and federal agency interviews, and management of all phases of discovery for criminal and civil matters.



## IV. 36. Prior Experience and References

Barnes & Thornburg's proposed team has provided independent monitoring services to corporations around the country. Our team includes experts in corporate ethics and compliance, including counseling on all levels of compliance matters arising out of rules and regulations governing the law enforcement sector. Our attorneys have worked with law enforcement from the U.S. Department of Justice, various Offices of Inspectors General, as well as state prosecutors, and have served on prosecution teams in cases involving the Oklahoma City bombing defendants and the rape trial of heavyweight boxer Mike Tyson.

Details of current Barnes & Thornburg monitorship engagements are outlined below:

### Devos Ltd., d/b/a Guaranteed Returns (GRx)

GRx is in the business of managing the return of pharmaceutical products for healthcare providers and pharmacies, in exchange for a fee based on a percentage of the return value. It is alleged that GR, under the direction of its former chief executive officer, diverted payments due and owing to its customers, to internal GR accounts. These customers included the federal government.

In October 2014, GR and three of GR's executives were indicted in the United States District Court for the Eastern District of Pennsylvania on various fraud charges. In an effort to re-establish their business with the Defense Logistics Agency, GR agreed to appoint Roscoe C. Howard, Jr. as its independent corporate monitor to review, evaluate and provide reports on their business policies and procedures.

As the monitor for GRx, Roscoe, along with Leasa Woods Anderson, conduct quarterly site visits to GRx's offices and warehouse in Long Island, New York. During these site visits, Roscoe and Leasa interview executives, managers, and staff members across all departments in order to learn how GRx's compliance program is working, areas for improvement, and other related issues or concerns as raised by each interviewee. Following each site visit, a report is prepared that include specific recommendations as to how GRx can continue to improve its compliance program to ensure compliance with federal, state, and local laws as well as best practices in the industry. As it relates to the RFA, this monitorship involves the following subparagraphs of Paragraph 26 but as they relate to the reverse distribution industry: a, c, f, g, k, l, m, n, o, and q.

**Team members:** Roscoe Howard, Leasa Woods Anderson

**Reference:** Paul Nick, CEO

**Work product example:** Non-confidential work product is not available at this time.

### Olympus NA

Barnes & Thornburg partner Roscoe Howard is a member of the team that was selected by the U.S. Department of Justice (DOJ) to serve as an independent monitor of Olympus Corp. of the Americas (OCA) to oversee the company's two Deferred Prosecution Agreements (DPA).

OCA, the largest distributor of endoscopes and related equipment in the U.S., was charged with a violation of federal anti-kickback laws in the sale of its medical devices, as well as the Foreign Corrupt Practices Act in the sale of those devices by an OCA subsidiary in Latin America. To resolve the civil and criminal allegations, OCA will pay a total of nearly \$646 million and must implement a number of compliance measures that will be assessed by Barnes & Thornburg over a period of three years. As it relates to the RFA, this monitorship involves the following subparagraphs of Paragraph 26 a, c, f, g, h, k, l, m, q.

**Team members:** Roscoe Howard

**Reference:** Greg Paw, Outside Counsel, Pepper Hamilton

**Work product example:** Non-confidential work product is not available at this time.

## Non-Confidential Work Product Examples

Examples of publically available work product of the proposed BPD monitorship team includes:

- Roscoe Howard was on an independent counsel In Re: Alphonso Michael (Mike) Espy. The final report is publicly available at the following link: <https://www.gpo.gov/fdsys/pkg/GPO-ICREPORT-ESPY/html/GPO-ICREPORT-ESPY-1.html>
- Roscoe Howard was on an independent counsel In Re: Samuel R. Pierce, Jr. The final report is publicly available at the following link: <http://heinonline.org/HOL/Page?handle=hein.beal/indcsamrp0001&size=2&collection=beal&id=1>

## Additional References

Due to confidentiality concerns, particularly as related to the Monitoring Team's criminal representations, the members of the proposed team can only provide generalized information regarding relevant representations and experience as listed in the section on "Qualifications." However, the Monitoring Team is happy to provide additional references related to qualifications, specific experiences and work product and can provide contact information for each of the individuals listed below at your request. Our relevant references include:

- A. Work on Inter-Agency Tasks Force and with various Law Enforcement:
  1. Larry D. Thompson, Counsel, Finch McCranie
  2. Scott Fredericksen, Managing Partner, Foley & Lardner
  3. Michael Stenger, Sergeant-At-Arms, U.S. Senate
  4. Robert Chaney, retired, District of Columbia Metropolitan Police Department
  5. Doug Ganzler, former Attorney General and Governor of Maryland
  6. Charles Ramsey, former Police Chief for the City of Philadelphia and former Police Chief for the District of Columbia Metropolitan Police Department
- B. Community Involvement and Community Organizations:
  1. Brenda McDuffie, Executive Director of the Buffalo Urban League
  2. Herb Bellamy, Director of 1490 Enterprises
- C. Representation of and work with City agencies and government officials
  1. Zachery Carter, Corporate Counsel, City of New York
  2. Byron Brown, Mayor, City of Buffalo

D. Legal Representations and work with diverse populations:

1. Claudia Cubas, CAIR Coalition
2. Rob Porter, former Attorney General and President of the Seneca Nation of Indians in the State of New York
3. Jonathan Smith, Executive Director of the Washington Lawyers Committee for Civil Rights and Urban Affairs
4. Rod Boggs, Former Executive Director of the Washington Lawyers Committee for Civil Rights and Urban Affairs

## IV. 37. Budget

The Monitoring Team reviewed carefully Paragraphs 28-29 of the RFA and Paragraph 443 of the Consent Decree and fully understand that it will be the responsibility of the Monitor to submit proposed budgets on an annual basis for the term of the Monitorship. This team is mindful that the RFA specifically states that Monitor candidates will be held to their proposed budgets and that the candidates are expected to assess present resources and capabilities of the BPD and its partners in order to leverage resources and in fulfillment of the Monitor's Proposed Plan. Because the Monitor genuinely foresees working collaboratively with the BPD and other community organizations, but does not yet have a full understanding or assessment of these capabilities or resources, this proposal only includes a budget for proposed work to be accomplished in at least the first 90 days but more likely stretching over the first quarter of the Monitorship. This proposal is attached as **Exhibit A**, "Phase 1: Early Assessment & Development of Monitor Plan."

As is the case with most Monitorships, there are large costs associated with on-boarding the members of the Monitoring Team and getting them up to speed with the BPD's recent initiatives to comply with the Consent Decree along with doing an initial assessment of resources available and needed. Accordingly, the Monitoring Team submits to the BPD and DOJ this initial budget forecast so that both parties can see that the Monitoring Team has made a thoughtful effort to comply with the RFA demands and has the technology to provide detailed, and real-time budget tracking and budget information. Furthermore, the Monitor commits that, if selected, along with providing a proposed Monitor Plan to the BPD and DOJ within the first 90 days, the Monitor will also, simultaneously, provide the BPD and DOJ with a full, annual budget for the first year of the Monitorship. Thereafter, the Monitor commits to providing the BPD, DOJ and posting publicly annual budget proposals.

## IV. 38. Collaboration and Cost Effectiveness

We understand that our clients seek creativity, collaboration and commitment from outside legal counsel to help manage and better predict legal spend. We routinely work with clients to develop creative solutions to manage fees through our BT ValueWorks approach which is our suite of pricing, process and technology solutions. We have full-time legal project management professionals, pricing professionals, and technology products dedicated to BT ValueWorks and believe that our proactive approach will translate into savings for our clients. To learn more about this initiative please visit our website at [www.btlaw.com/btvalueworks](http://www.btlaw.com/btvalueworks)

### Measurable Budget Control

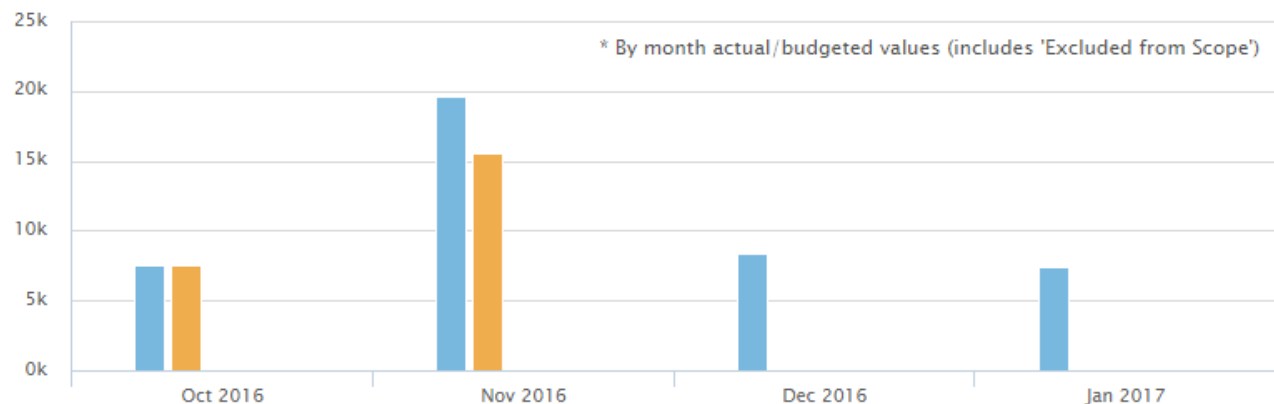
A thoughtfully crafted comprehensive pricing solution should address not only our clients' goals, but also their specific cost concerns. Our first step is to listen.

In working with other municipalities who share your desire for cost control, we feel our BT ValueWorks initiative gives clients *measurable budget control* over the matters they ask us to handle. This sets us apart from our competitors in the market; delivering legal advice and solutions to clients on time and within budget. Currently, we are using our BT ValueWorks matter management program, Umbria, to proactively monitor numerous budgets in "real time", curtailing any inefficiency in work product before it reaches the invoice. Examples of data and metrics provided by Umbria are included below.

### Sample Matter Metrics

The system provides high-level key performance indicators (KPI), as well as detailed views of budget vs. actuals in real time.

BUDGETED FEES (TOTAL)	
Budgeted Fees*	Billable for Budget*
<b>\$101,000</b>	<b>\$38,817</b>
Remaining Budget*	
<b>\$62,183</b>	



### Sample Phase Metrics for Matter Management

These are *proactive* phase codes used to monitor component pieces of a project; they are displayed by phase and include budgeted hours by timekeeper and/or fees. The Monitoring Team will be using phase codes to bill its work if it appointed as the Court Monitor for the BPD.

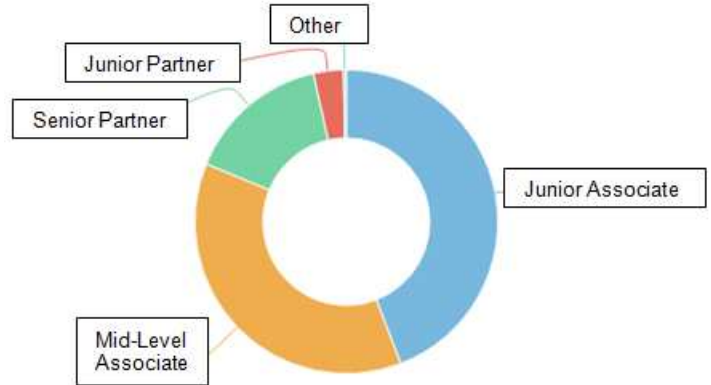
The use of this technology will allow the Monitor to provide concrete, transparent and real-time

Other	Billable Fees	Budgeted Fees	Variance	% Used
HC100 RESEARCH	\$30,333	\$40,000	\$9,667	75.8%
HC200 STRUCTURING, PLANNING & STRATEGY	\$8,484	\$25,000	\$16,517	33.9%
HC300 TRANSACTION IMPLEMENTATION	\$0	\$36,000	\$36,000	0.0%
<b>Total</b>	<b>\$38,817</b>	<b>\$101,000</b>	<b>\$62,183</b>	<b>38.4%</b>

budget tracking in order to foster a sense of trust in the processes established by the hard work of the BPD and the DOJ.

**Sample Staffing Metrics**

Umbria provides the ability to quickly review leverage ratios (shown by name and timekeeper level), diversity on teams and percentage breakdown of hours so appropriate adjustments can be made as a matter progresses.



## IV. 39. Potential Conflicts of Interest

While the Monitoring Team attorneys have confirmed that there are no potential conflicts of interest, and will work to ensure that no conflicts of interest develop during the term of the monitoring as prescribed by the RFA, it should be noted that Barnes & Thornburg has a robust national practice and practitioners who are not part of the Monitoring Team and who may, from time to time, be adverse to certain entities covered by the RFA, including the U.S. Department of Justice, Civil Rights Division. Our understanding based on the clarifications provided with the RFA is that the preclusion on potential conflicts of interest applies only to those legal personnel assigned to the Monitoring Team and will not be imputed to others in the firm. It is with this understanding and condition that the members of the proposed Monitoring Team, and only those members, agree to be bound by Section 39 of the RFA and Section J, Paragraphs 476-479 (including clarifications noted in the Joint Motion of Errata) of the Consent Decree for the duration of the monitorship.

Exhibit A



Fiscal Year:

**Budget Form: Monitorship**

In House Attorney:   
 Date Budget Submitted:

Outside Counsel Attorney:   
 Outside Counsel Firm Name:

Matter #:   
 Matter Name:

Tasks								
Phase 1 - Early Assessment & Development of Plan (¶¶ 461-462)	Partner 1	Of Counsel 1	Partner 2	Of Counsel 2	Associate 1	Paralegal 1	Total Hours Per Task	Total Fees Per Task
Initial Interviews with BPD (¶461(a))	30.0	30.0	30.0	30.0	30.0	30.0	180.0	\$ 107,700
Establish website		10.0			10.0	10.0	30.0	\$ 14,250
Assess and Gather BPD statistics related to ¶ 459 (a) - (n) for 2015-2016		20.0		20.0	45.0	45.0	130.0	\$ 60,950
Review of 2015-2016 BPD stats related to performance measures	20.0	40.0	20.0	40.0	80.0	80.0	280.0	\$ 144,600
Initial meeting with Community Oversight Task Force	8.0	10.0	8.0	10.0	12.0	12.0	60.0	\$ 34,420
Initial meeting with BPD Command Staff re: EIS and resource assessment	8.0	10.0	8.0	10.0	12.0	12.0	60.0	\$ 34,420
Conduct Town Hall Community Meetings (2)	16.0	20.0	16.0	20.0	24.0	24.0	120.0	\$ 68,840
Review (baseline) of BPD tracking capabilities (¶¶ 42, 46, 49, 50, 62 etc.)		30.0		30.0	40.0	30.0	130.0	\$ 65,900
Monthly submission of bills & website updates			1.0	1.0	1.0		3.0	\$ 1,810
Draft and Submit Monitor Plan	5.0	20.0	5.0	20.0	35.0	8.0	93.0	\$ 50,440
<b>TOTAL Phase 1:</b>	<b>87.0</b>	<b>190.0</b>	<b>88.0</b>	<b>181.0</b>	<b>289.0</b>	<b>251.0</b>	<b>1,086.0</b>	<b>\$ 583,330</b>
<b>TOTAL HOURS &amp; LEGAL FEES:</b>	<b>87.0</b>	<b>190.0</b>	<b>88.0</b>	<b>181.0</b>	<b>289.0</b>	<b>251.0</b>	<b>1,086.0</b>	<b>\$ 583,330</b>

Expenses	
Website start-up fee	\$ 10,000
Monthly Website hosting	\$ 500
Mileage (20 total trips)	\$ 700
Parking (\$15 per day, 20 total trips)	\$ 300
Team Lunches (\$50 per day, 20 total trips)	\$ 1,000
<b>TOTAL Expenses:</b>	<b>\$ 12,500</b>

<b>Legal Fees:</b>	<b>\$ 583,330</b>		
<b>Expenses:</b>	<b>\$ 12,500</b>		
<b>TOTAL Legal Fees &amp; Expenses:</b>	<b>\$ 595,830</b>	<b>TOTAL AMOUNT:</b>	<b>\$ 595,830</b>

Assumptions or Explanations:

\*See RFA Response.