

TEXAS INDIGENT DEFENSE COMMISSION

Extraordinary Disbursement Grant Procedures

General Information

Pursuant to Texas Government Code §79.037, the Texas Indigent Defense Commission (Commission) makes payments, including grants, to counties to provide indigent defense services. The Commission recognizes the hardships counties may confront due to extraordinary circumstances related to providing indigent defense services. "Extraordinary Disbursement Grant" means discretionary-based funding to reimburse a county for actual extraordinary expenses for providing indigent defense services in a case or series of cases causing a financial hardship for the county (Texas Administrative Code §173.102(8)). Past events that have qualified a county for extraordinary funding include capital murder cases, capital cases with multiple defendants, and natural disasters.

Eligibility and Conditions for Funding

- Only counties may submit requests for reimbursement of actual extraordinary indigent defense expenses.
- The county must demonstrate that its plan and procedures required by Government Code §79.036 meet the minimum criteria established by the Commission.
- The application form and request letter must be signed by the Constitutional County Judge.
- Counties must submit all required material on or before June 1.
- Counties may only include qualifying extraordinary expenses incurred during the Commission's current and/or immediately preceding fiscal year (September 1 to August 31).
- Only the following direct litigation expenses are eligible: attorney fees, expert witness fees, investigation fees, and mitigation fees.
- Counties must submit an itemized list of actual extraordinary expenses organized chronologically including payee information, nature of services provided, and amount of each expense.
- Counties must provide documentary evidence such as invoices, receipts, canceled checks, or pay stubs to support the itemized list of extraordinary expenses.
- Only expenses that have been paid by the county are eligible. Open or outstanding expenses may not be submitted for reimbursement.
- The maximum amount for which a county may seek reimbursement is \$50,000 per defendant.
- Funding will only be considered if expenses are in excess of the county's 2001 baseline indigent defense expenditures.
- If a county's request is related to defense expenses in death penalty cases, the Commission will consider the county's history and current status regarding participation in the Regional Public Defender Office for Capital Cases (RPDO). The application material must provide information that provides sound justification for opting out of the RPDO if the county is eligible for RPDO participation but has not joined.

Procedure for Submission

Counties must complete the Commission's application form and provide documentation to substantiate their claim. The application will include a statement of need that explains the request for reimbursement of indigent defense costs, including any relevant information related to the financial hardship placed on the county as a result of the case(s). The Commission may consider a county's percent increase in indigent defense expenditures over baseline compared to the statewide average in the last year reported.

Counties that wish to apply for these funds may request the application form from the Commission staff or download it from <http://www.tidc.texas.gov>. Once the counties have incurred allowable expenses,

they may submit their completed application the Commission, along with the itemized list of expenditures and other required material. Submission material should be emailed to the Commission staff.

Upon receipt of the complete application the Commission grants manager will review the information provided and contact the county if more information is needed to ascertain if the expenses are eligible direct litigation expenses for indigent defense. An application is not considered complete until it has met all of the applicable Conditions for Funding. Once a county's request is complete, the grants manager will notify the county judge by email or letter.

Approval and Payment Process

The grants manager and director are responsible for making a recommendation to the Commission on all completed applications seeking reimbursement.

A positive recommendation will include: 1) documentation that the indigent defense expenditures incurred by the county are more than the sum of the FY 2001 baseline expenses and the amount of the formula grants awarded; 2) verification that the expenses submitted are direct litigation expenses related to indigent defense; 3) verification that the plans submitted to the Commission are in compliance with the minimum criteria to qualify for formula grant funds; 4) a finding that the expenses incurred by the county are extraordinary and constitute a financial emergency for the county; and 5) a finding that no other Commission programs or sources of funds were available to assist the county.

The Commission will review the requests and the staff recommendation. The discretionary review is based on: 1) the availability of funds; 2) staff recommendations; and 3) whether applicant counties are utilizing regional programs that may mitigate extraordinary indigent defense needs. The director will notify the applicant within 15 days of the date the Commission approves funding to a county.

The Commission may review completed applications from counties and staff recommendations at any meeting. The Commission may choose to consider all applications received within a specified time period at the same meeting. The Commission is not obligated to reimburse any expenses to counties. The Commission will reimburse counties only if funds are available. Under no circumstances will the Commission consider reimbursing counties if doing so will jeopardize the daily operation of the Commission or limit its ability to accomplish its mission.

The director of the Commission will complete the *Authorization for County Reimbursement Form*. If approved, the director will forward the form to the budget analyst assigned to the Commission for payment. The Chief Financial Officer will determine the fiscal year from which the funds will be paid. The budget analyst will submit the USAS voucher directing the Comptroller to issue the funds to the county.