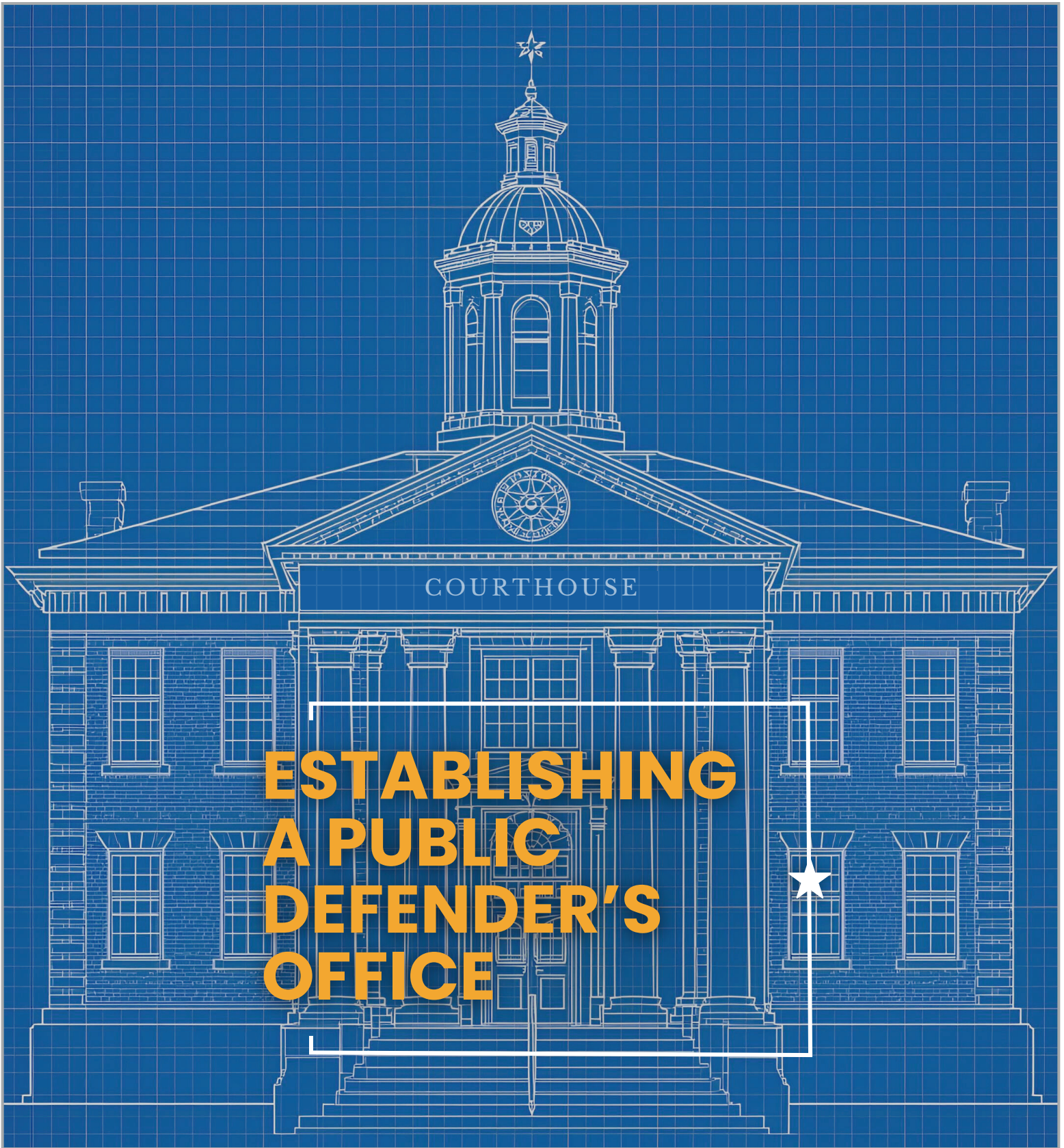




COUNTY STAKEHOLDER MANUAL

A GUIDE FOR NEW GRANT RECIPIENTS



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INTRODUCTION

TIDC's Board and Staff welcome you to our growing community of TIDC-funded public defense programs! As of January 2025, TIDC has funded 28 public defender offices serving 75 counties. Research has demonstrated that dedicated public defender offices can provide reliable representation and obtain better outcomes for clients, and also save taxpayer dollars.

Launching a public defender office (PDO)—whether serving a single county or multiple counties—may appear to be a bit overwhelming. Much like starting a new business, opening a new public defender's office often presents many questions and unexpected challenges. This manual is designed to assist stakeholders in establishing the PDO, as well as understanding the factors that ensure the PDO's success. Essential to achieving this goal are effective communication, coordination, and cooperation among all key stakeholders. These include elected officials, county departments, the Public Defender Oversight Board, and the chief public defender.

To support this effort, TIDC has developed the Stakeholder Manual and the Texas Chief Public Defender Toolkit:

- The Stakeholder Manual focuses on stakeholder duties, outlining key decision points, streamlining processes, and facilitating a timely and successful program launch.
- The Chief Public Defender Toolkit offers new and current chiefs detailed guidance on essential leadership tasks.

MANUAL CHAPTERS FOLLOW PROGRAM LAUNCH STAGES:

1. Foundation: Initial Steps
2. Activation: Expenses & Operating Plans
3. Implementation: Staffing, Facilities, & Reporting
4. Inauguration: Complete Tasks and Open Office

EACH CHAPTER INCLUDES:

- A list of tasks and associated steps
- Task leaders, recommended participants, and notifications
- Instructions and guidance
- Necessary approvals
- Important deadlines

Sample forms, resources, and statutory references are hyperlinked throughout the manual and included in the appendix.

For further assistance or questions, TIDC's Improvement and Grant Teams are available to provide technical support and help ensure the success of your county's public defense program. Please reach out to us with any questions or concerns at (512) 936-6994 or info@tidc.texas.gov.

PROGRAM PHASES AND TASKS

1

FOUNDATION: INITIAL STEPS

1. Sign and Return the Statement of Grant Award
2. Establish Office with Resolution, Contract, or Interlocal Agreement
3. Establish the Public Defender Oversight Board
4. Schedule First Oversight Board Meeting
5. Recruit Chief Public Defender

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ACTIVATION: EXPENSES & OPERATING PLANS

6. Access Grant Funds
7. Hire and Onboard the Chief Public Defender
8. Develop and Adopt the Public Defender's Office Plan of Operation
9. Update County Indigent Defense Plans

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IMPLEMENTATION: REPORTING, FACILITIES, & STAFFING

10. Submit Quarterly Reports and Grant Renewals to TIDC
11. Recruitment Challenges and Support
12. Office Space and Equipment
13. Draft PDO Case Representation Policies and Procedures Manual

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INAUGURATION: COMPLETE TASKS & OPEN OFFICE

14. Finalize Preparations
15. Begin Accepting Cases

FOUNDATION: INITIAL STEPS

TASK 1	Sign and Return the Statement of Grant Award (SGA)
TASK 2	Establish Office with Resolution Contract or Interlocal Agreement
TASK 3	Establish the Public Defender Oversight Board
TASK 4	Schedule First Oversight Board Meeting
TASK 5	Recruit Chief Public Defender

TASK 1: SIGN AND RETURN THE STATEMENT OF GRANT AWARD (SGA)

Task lead: County judge/host county judge or designee

Recommended participants:

- All judges hearing cases for which the public defender's office (PDO) will provide representation,
- County auditor,
- County treasurer,
- County human resources department,
- County purchasing agent or department handling purchasing matters, and
- County IT department.
- If the PDO will serve multiple counties, forward a copy of the Statement of Grant Award and this manual to the commissioners courts of all participating counties.



The authorized official named on the grant application, usually the county judge for the host county, must sign the SGA and return it to TIDC within 30 days.

STEP 1.1: OBTAIN COPIES OF INITIAL PROGRAM DOCUMENTS

The Request for Application (RFA) instructions and the Statement of Grant Award (SGA) outline the legal requirements for the grant. The program application attached to the SGA lists all office positions and the number of full-time employees needed for each. It should also specify the types of cases the PDO is approved to handle and the percentage of all cases filed in the service area the office represents. Additionally, the RFA and SGA instructions describe which activities are eligible for reimbursement through the program's grant funds.

The following documents should be obtained:

- TIDC planning study for the PDO, if one was prepared
- Submitted grant application
- Commissioners Court Resolution Authorizing Application, *See Grant Rules*
- Judicial Letters of Support, *See Grant Rules 1.8, 1.9, & 1.10*
- Statement of Grant Award

To facilitate onboarding and compliance with grant requirements, these documents should be shared with stakeholders at the meeting described below, the Oversight Board once constituted, and the chief upon hire. *See also: TIDC Grant Rules and Budget Categories and Reporting Deadlines in the Appendix.*

STEP 1.2: NOTIFY RECOMMENDED MEETING PARTICIPANTS

Upon receiving the SGA, the county judge, host county judge, or their designee must follow the county/host county's grant approval process. This includes notifying the appropriate individuals listed below of the SGA and scheduling meetings to review its contents.

- All judges hearing cases for which the public defender's office will provide representation,
- County auditor,
- County treasurer,
- County human resources department,
- County purchasing agent or department handling purchasing matters, and
- County IT department.



If the PDO will serve multiple counties, forward a copy of the SGA and this manual to the county judge of all participating counties.

STEP 1.3: SCHEDULE STAKEHOLDER MEETING

TIDC strongly recommends scheduling a meeting—or meetings—with individuals identified above to review the SGA. The SGA not only confirms the approval of the application but also outlines the specific grant requirements, establishes the initial program budget, defines the number of full-time employees (FTEs) and their salaries by position, and sets the reporting and reimbursement schedule as well as the grant account number. Ideally, this review should occur before the application is submitted to TIDC, though that is not always the case.

During the initial meeting, participants should thoroughly review the SGA and TIDC's grant rules to ensure that all parties clearly understand the grant's terms and conditions. Special attention should be given to the following key points:

1. The problem the PDO is intended to address, how it will alleviate the challenges identified, and the goals and measurements to assess program progress.
2. The types of cases the PDO is expected to accept and the percentage of each case type the office will be appointed to represent.
3. The grant operates on a reimbursement basis, and no reimbursements can be issued until the quarterly expenditure report is submitted to TIDC.
4. The county's required contribution rates—or, for rural regional programs, the contribution rate for each participating county and how to calculate this rate. *See "How to Calculate the Contribution Rate for Multi-County Programs."*
5. No grant funds may be expended or obligated prior to the grant funding period, which runs from October 1 to September 30 of the following year. Therefore, any initial contribution amount, including the portion that is eligible for reimbursement, should be discussed.
6. Any proposals to increase or decrease the budget, change the number of FTEs, adjust salaries, or reallocate funds across budget lines must receive prior approval from the TIDC Board, unless the changes are funded locally.



All Commission grant programs are governed by one or more of the following statutes, administrative rules, and professional standards:

- Texas Code of Criminal Procedure, Article 26
- Texas Administrative Code, Title 1, Chapters 173 and 174
- Texas Government Code, Chapter 79
- Texas Grant Management Standards (TxGMS) as promulgated by the Texas Comptroller of Public Accounts

TIDC's grant rules and the statutes, rules, and standards noted should be carefully reviewed by all participants for important deadlines, necessary approvals, and other requirements. These documents, with the exception of the TXGMS, are included in the Appendix and references to specific provisions are hyperlinked throughout this manual for ease of use.

STEP 1.4: FILL GRANT-REQUIRED POSITIONS

The grant application rules require the applicant to designate an individual to fill the positions listed below. Refer to the program application for these designations and notify TIDC if any information has changed. *See 1 Tex. Admin. Code §173.301 (2023) and Grant Rules 1.11.* If individuals are not named to these positions in the grant application, the county judge/host county judge must fill them, the commissioners court/host county commissioners court must approve them, and the approved position list must be submitted to TIDC.

PROGRAM DIRECTOR

This person must be the officer or employee responsible for program operation or monitoring and will serve as the point-of-contact regarding the program's day-to-day operations.

FINANCIAL OFFICER

For counties, this person must be the county auditor or county treasurer if the county/host county does not have a county auditor. The financial officer is the fiscal administrator of the grant and is responsible for submitting monthly staffing and quarterly expenditure reports to TIDC.

AUTHORIZED OFFICIAL

This person must be authorized by the commissioners court or governing board to apply for, accept, decline, modify, or cancel the grant. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official.



The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official.

A grantee shall notify the Commission within 20 calendar days of any change in the:

- Designated project director, financial officer, or authorized official; or
- Mailing address, physical address, email address, fax number, or telephone number of each grant official.

STEP 1.5: DESIGNATE A RECORDS CUSTODIAN

Records retention is required for the purposes of 1) state examination, audit, and monitoring, and 2) evaluation of the program's impact and compliance with the Fair Defense Act. "Grantees must maintain all financial records, supporting documents, statistical records, and all other records pertinent to the award . . . and records for equipment, non-expendable personal property, and real property..." for a period of three years. *1 TX Admin.Code §173.303 (2023).*

TIDC is responsible for monitoring “the activities of grantees as necessary to ensure that Commission grant funds are used for authorized purposes in compliance with laws, regulations, and the provisions of grant agreements.” *See 1 TX Admin Code §173.401(a) (2023)*. During a monitoring visit, the financial officer must “make available to the Commission, or its designees, all requested records relevant to a monitoring review.” *See 1 TX Admin Code §173.401 (2023) for more details*. The financial officer must promptly submit copies of financial records and reports to the chief public defender. *See also TIDC Grant Rules 3.4*.

TIDC-funded public defender programs must also collect data for program evaluation and compliance purposes. This may require data collection agreements from county offices or departments to provide the program director with information on a regular basis. *See 1 TX Admin. Code §173.310 (2023) and TIDC Grant Rules 3.4*.

Although the PDO will become its own records custodian once the chief public defender is hired, the designated financial officer must maintain a complete set of initial program documents and all records pertinent to the award.¹ These records will support a smooth onboarding process and assist in the continued development of the office.

STEP 1.6: REVIEW THE AWARD BUDGET

It is essential that all county judges, auditors, and commissioners fully understand the budget established in the SGA. This includes the total program budget, number of FTEs and salaries, reimbursement amounts, grant terms, allowable expenditures, budget categories, and legal requirements applicable to all grant funds. *See TIDC Grant Rules 2.2 and 2.4. A Sample SGA and Program Budget are included in the Appendix.*



A county may not reduce the total amount of funds expended for indigent defense services in the county because of funds provided by the Commission.

¹ These documents include the planning study, program application, interlocal agreements, judicial support resolution, letters of support, and the Statement of Grant Award (SGA).

RURAL REGIONAL PUBLIC DEFENDER SUSTAINABILITY GRANTS

In the first year of a rural regional grant, participating counties are eligible for reimbursement of **80% of allowable costs, including startup expenditures**. For the remainder of the program, TIDC will reimburse **66% of allowable costs**. A participating county's individual share of the cash match is determined by the interlocal agreement between participating counties. The participating counties collectively contribute the required cash match amount, typically calculated based on caseload or population.

Administrative costs incurred by the host county are also eligible for reimbursement at the same rate. These expenses should be recorded as an "indirect cost" in the SGA budget table. **This is the only type of expense that should be included in the indirect cost category when recording program expenditures or preparing annual budgets.**

MULTI-YEAR IMPROVEMENT GRANTS

Single-county grantees must provide a cash match from county or other funds of **20% of total project costs in the first funding year, 40% the second funding year, 60% the third funding year, and 80% the fourth funding year**. An applicant's use of matching funds must comply with the same statutes, rules, regulations, and guidelines applicable to the use of the Commission-funded portion of a grant project.

STEP 1.7: REVIEW RECOMMENDED SALARIES AND ESTIMATED FRINGE BENEFITS

The SGA includes total employee salaries and fringe benefits in one budget line. *See Appendix for Sample SGA.* To fully review salaries by position and the fringe benefit rate, the program application and planning study should be consulted.

Recommended salaries included in TIDC's planning studies and estimated fringe benefits are based on multiple factors: comparable salaries in county and district attorney offices, TIDC's salary study, and local market conditions. *See TIDC Salary Study and Justice Beyond the Cities: The State of Rural Defense in Texas.*

Charts 1.10.1 and 1.10.2 outline TIDC's salary guidelines and the review process for determining whether proposed compensation is presumptively approvable. Salaries must be both reasonable and competitive. Aligning compensation with equivalent positions in the district or county attorney's office is a practical starting point. However, higher salaries may be needed to recruit qualified candidates—particularly if nearby public defender offices offer more competitive pay. Given that you were awarded a grant, the salaries included in your application should already have been approved by the TIDC Board. Consult the SGA to confirm the grant award reflects any adjustments.

Chart 1.10.1 Salary Ranges

Salary Ranges by Position Type as of April 2024						
Position Type	Minimum	25th	50th	75th	Maximum	Average
Chief/Directors	\$95,000	\$128,000	\$150,416	\$184,152	\$239,438	\$157,046
Other Managers	\$85,000	\$113,362	\$139,110	\$162,000	\$215,653	\$140,814
Trial/Line Defenders	\$65,000	\$90,002	\$104,322	\$126,996	\$171,905	\$107,396
Other Attorneys (e.g., resource/MyPadilla)	\$72,000	\$88,521	\$107,694	\$117,926	\$149,427	\$103,498
Social Service Personnel	\$39,437	\$50,050	\$61,950	\$72,030	\$109,138	\$64,233
Investigator	\$44,000	\$62,268	\$86,355	\$91,269	\$121,249	\$79,105
Paralegal	\$43,472	\$55,046	\$59,966	\$62,192	\$86,029	\$61,134
Admin/Support Personnel	\$21,488	\$42,250	\$50,398	\$58,420	\$128,398	\$55,071
Other (e.g., Data Analyst, IT)	\$53,123	\$65,000	\$68,956	\$90,000	\$125,000	\$79,215

Chart 1.10.2 Salary Presumptions

TIDC Board Adopted Salary Presumptions		
Salary Percentile Set	Presumption	Additional TIDC Steps
Up to 25th percentile	Not presumptively approved	TIDC staff will advise counties that the proposed salary is less competitive and may be viewed less favorably during the grant approval process.
25th to 50th percentile	Presumptively approved but not advised	TIDC staff will advise counties that the salary proposal is less competitive and may be viewed less favorably in the competitive grants process.
50th to 75th percentile	Presumptively approved as reasonable	TIDC staff will advise counties to set salaries in this range as they will be presumptively approved as reasonable.
75th to 100th percentile	Individual justifications required	TIDC staff will review requestor rationale and justification. Staff recommendations will be brought to TIDC's Board for individual review.

Employees of the public defender's office are county employees (or host county employees in rural regional programs) and receive the same benefits as other county personnel, including retirement, insurance, FMLA, sick leave, and vacation. Although fringe benefit estimates are included in the planning study and SGA, the following employer-paid benefit categories should be reviewed closely to ensure the grant application included accurate budgeting:

- FICA/Medicare
- Workers' compensation
- Unemployment insurance
- Retirement
- Health and other insurance benefits

If it is determined that benefits were not calculated properly for the grant application, the host county should submit a grant modification request to TIDC.



Close coordination amongst county judges, HR, and financial offices will help ensure salaries and benefits align with both program needs and county policies.

STEP 1.8: EVALUATE BUDGETARY IMPACT OF COMMON FRINGE BENEFITS

If the county/host county provides cost-of-living adjustments, longevity pay, or other incentives that increase salaries or benefits beyond the amounts budgeted in the SGA, stakeholders must assess the budgetary impact of these benefits and determine whether a grant modification request should be submitted to TIDC for prior approval. *See 1 Tex. Admin. Code §173.306 (2023). See also Section 5.2 of this Manual, “Submitting a Budget Modification Request,” Tex. Gov. Code 79.037(g), TIDC Grant Rules 5.14 and “How to File a Budget Modification Request.”*

STEP 1.9: ESTABLISH AN INVOICING AND REMITTANCE SCHEDULE

For rural regional programs, local officials should understand the financial officer’s role, how each county’s cost share is determined and reimbursed, the grant term, and the annual renewal procedure. Stakeholders should collaborate to establish an invoicing, payment, and reimbursement schedule that aligns with TIDC’s reporting and reimbursement timelines. *See Budget Categories & Reporting Schedule in the Appendix.*

STEP 1.10: SIGN AND RETURN THE STATEMENT OF GRANT AWARD (SGA)

After receiving the SGA, the authorized official who signed the program application—typically the county judge—must sign and return the SGA to TIDC within 30 days of the date the SGA was issued. Program implementation activities may begin once the signed SGA is received and accepted by TIDC; however, no grant funds may be expended until October 1. *Admin. Code §173.107 (2023). See also TIDC Grant Rules 4.1-4.7.*

TASK 2: ESTABLISH OFFICE WITH RESOLUTION, CONTRACT, OR INTERLOCAL AGREEMENT

Task lead: Host county judge

Recommended participants:

- Participating county judges
- Commissioners of host and participating counties)
- Grant financial officer

STEP 2.1: CREATE A COUNTY DEPARTMENT OR DESIGNATE A NONPROFIT TO SERVE AS THE PUBLIC DEFENDER'S OFFICE (SINGLE COUNTY DEPARTMENT)

For a single-county office, the commissioners court must pass a resolution that creates a county department or approve a contract with a nonprofit corporation to serve as the public defender's office. *Tex. Code Crim. Proc. Art. 26.044(b)*. The resolution must specify:

- The duties of the public defender's office;
- The types of cases to which the public defender's office may be appointed and the courts in which an attorney employed by the office may be required to appear;
- The powers and duties that have been delegated to the Oversight Board established under Art. 26.045; and,
- If the public defender office is a nonprofit corporation, the term of the contract designating the public defender office is effective and how the contract may be renewed upon expiration. Before contracting with a nonprofit, the commissioners court must solicit proposals for the public defender's office.

STEP 2.2: ADOPT AN INTERLOCAL AGREEMENT TO CREATE A COUNTY DEPARTMENT OR DESIGNATE A NONPROFIT TO SERVE AS A REGIONAL PUBLIC DEFENDER'S OFFICE (MULTIPLE COUNTIES)

To establish a regional public defender office serving multiple counties, an interlocal agreement must be passed by all participating counties that creates a department in one of the counties or designates a nonprofit corporation to serve as the public defender's office for all the counties.

An interlocal agreement for a PDO is a "written agreement [between two or more counties] to jointly create or designate and jointly fund a regional public defender's office." *Public Defender Interlocal Agreements are made pursuant to Tex. Code Crim. Proc. Art. 26.044(b) and the Interlocal Cooperation Act, Ch. 791, Gov. Code.*

The commissioners courts of each participating county must adopt the interlocal agreement. Required information includes, but is not limited to:

- The duties of the public defender's office,
- The types of cases to which the public defender's office may be appointed under Article 26.04(f) and the courts in which an attorney employed by the public defender's office may be required to appear,
- If an Oversight Board is established under Article 26.045 for the public defender's office, the powers and duties that have been delegated to the Oversight Board.

In addition, the applicable commissioners courts “shall require a written plan from a governmental entity serving as a public defender's office.” *Tex. Code Crim. Proc. Art. 26.044(b-1)*. See also *TIDC Grant Rules 5.2, 5.8, and 5.19*. Sample interlocal agreements are included in the Appendix.

STEP 2.3: ADOPT AN INTERLOCAL AGREEMENT TO CREATE A COUNTY DEPARTMENT OR DESIGNATE A NONPROFIT TO SERVE AS A REGIONAL PUBLIC DEFENDER’S OFFICE (MULTIPLE COUNTIES)

The authorized official (typically the host county judge) must submit the adopted interlocal agreement signed by each county to TIDC. This agreement must be revised or updated if:

- It lacks required information,
- Required information changes, or
- The composition of the program’s service area changes (e.g., participating counties are added or removed).

TASK 3: ESTABLISH THE PUBLIC DEFENDER OVERSIGHT BOARD

Task lead: Authorized official/county judge

Recommended participants:

- County judges/participating county judges (rural regional programs)
- Commissioners courts (of all participating counties)

STEP 3.1: IMPLEMENT OR DRAFT AN OVERSIGHT BOARD PLAN

The program application requires the submission of an Oversight Board Plan, which describes the membership positions, board structure, and board responsibilities. Note that applicants are not required to name individual board members at the time of application but must instead identify board member positions—for example, “member of the defense bar,” “community member,” or “law professor focused on criminal law.” Therefore, it is important to consult the program application to avoid duplicating efforts already completed. *See Tex. Code Crim. Proc. 26.045, 1 TX. Admin. Code §173. TIDC Grant Rules 5.5.*

If the application includes a completed Oversight Board Plan, it should be reviewed for compliance with the following requirements. Additionally, the county judges (or host county judge and participating county judges) share joint responsibility for ensuring that individuals are recruited and appointed in a timely manner to fill each designated position.

STEP 3.2: ESTABLISH THE PUBLIC DEFENDER OVERSIGHT BOARD

All TIDC PDO grant recipients are required to establish and maintain an Oversight Board, as outlined in the SGA and Article 26.045 of the Texas Code of Criminal Procedure. Specifically:

The County must develop and maintain a Regional Public Defender Oversight Board in accordance with Texas Code of Criminal Procedure Article 26.045 to oversee the operation of this regional program and that incorporates stakeholders from the expansion counties funded under this grant. The County must submit a draft policy detailing how the members are selected and the duties and procedures of the Board to TIDC for feedback and approval prior to finalization. The Oversight Board must meet at least quarterly. *Tex. Code Crim. Proc. Art. 26.045 and TIDC Grant Conditions 5.5.*

STEP 3.3: COMPOSITION & QUALIFICATIONS

The Oversight Board should reflect the demographics and needs of the participating counties. While the commissioners court or county judge of a participating county usually appoints Oversight Board members, you may also designate an appointing authority from relevant local communities—such as your local bar association, area law schools, and community groups—that will nominate Board members. This approach helps ensure community interest and involvement. Additionally, Board members should have knowledge of their community’s criminal justice issues and a general understanding of the criminal legal system and/or county government. *See TX Code Crim. Proc. Art. 26.045(b).*

STEP 3.4: RESTRICTIONS

An Oversight Board is a mandatory component of any TIDC-funded public defender office or rural regional public defender program because it fulfills three critical functions:



- Law enforcement officers and prosecutors may not serve on the Board.
- Sitting judges and magistrates are discouraged from serving if public defender attorneys will appear in their courts, to avoid potential conflicts of interest.

STEP 3.5: STATUTORY DUTIES

The Board’s responsibilities are codified in the Texas Code of Criminal Procedure and include:

- Recommending selection and removal of a chief public defender,
- Setting policy for the office, and
- Approving a budget proposal for the office.

See Tex. Code Crim. Proc. Arts. 26.044, (b-1), (c-1), and 26.045. Further guidance can be found in TIDC’s Oversight Board Guide, which includes best practices and sample language for use in bylaws, policies, and appointment letters, and *ABA Ten Principles of a Public Defense Delivery System*.

TASK 4: SCHEDULE FIRST OVERSIGHT BOARD MEETING

Required participants: Oversight Board members

STEP 4.1: HOLD FIRST MEETING

Once individuals are selected to fill the Oversight Board positions—either as outlined in the program application or established by the county judges and adopted by the commissioners courts—the Oversight Board should convene its first meeting. The agenda for this initial meeting should include the following items:

- Elect Board officers
- Draft and adopt bylaws
- Develop a Leadership Hiring Plan (if not already completed)
- Appoint a Leadership Hiring Committee
- Set a regular meeting schedule



The Leadership Hiring Plan may be included in the program application; if not, it should be developed and approved during this meeting.

STEP 4.2: ELECT OFFICERS

While Oversight Boards are not required to elect officers, they may choose to do so. If officers are elected, the Board should designate a secretary to be responsible for recording meeting minutes and maintaining Board-related documents, records, and reports. *See TIDC Oversight Board Guide.*

STEP 4.3: DRAFT & ADOPT BYLAWS

The Oversight Board must draft and approve bylaws and submit them to TIDC. Bylaws may be concise or comprehensive but, at a minimum, should include member selection procedure and terms, meeting schedule, and Oversight Board duties. TIDC suggests draft bylaws be prepared and distributed before the meeting. *Sample bylaws are included in the Appendix.*

STEP 4.4: SET A PRELIMINARY MEETING SCHEDULE

Board members should set a preliminary meeting schedule, such as monthly meetings initially, to promptly address questions and concerns that may arise during the Foundational Stage of program implementation.

After the chief public defender is hired, the Oversight Board should meet quarterly. At these meetings, the chief should:

- Provide a progress report on office activities,
- Inform the Board of any challenges or concerns,
- Answer questions from Board members, and
- Seek advice or assistance when appropriate.

STEP 4.5: SELECT HIRING COMMITTEE AND IMPLEMENT LEADERSHIP SELECTION PLAN

The Hiring Committee is responsible for implementing or developing a Leadership Selection Plan and drafting the chief public defender job description. If a Leadership Selection Plan was already included in the program application, the Oversight Board is responsible for implementing that plan. Both the Leadership Selection Plan and the job description must be submitted to TIDC for approval before advertising the chief public defender position. *See Tex. Code Crim. Proc. Art. 26.044(f), TIDC Grant Rules 5.6 and 5.7, and sample job postings in the Appendix.*

STEP 4.6: TEXAS OPEN MEETINGS ACT

Although the Board is not legally required to comply with the *Texas Open Meetings Act*, TIDC strongly recommends keeping a record of each meeting. This includes maintaining meeting minutes and preserving any reports or documents reviewed or submitted during the meeting.

TASK 5: RECRUIT CHIEF PUBLIC DEFENDER

Task lead: Oversight Board Hiring Committee

Recommended participants:

- Oversight Board Hiring Committee
- Participating county judges
- Commissioners court/host county commissioners court

STEP 5.1: DRAFT CHIEF PUBLIC DEFENDER JOB POSTING

The Hiring Committee is responsible for drafting the chief public defender job posting if one was not approved at the first Board meeting. The Committee should consult the statutory requirements listed in [Tex. Code Crim. Proc. §26.044](#) and [sample chief public defender job descriptions in the Appendix](#). The Committee should also contact the county/host county's human resources department to verify benefits information and discuss job posting procedures when preparing the position announcement.

STEP 5.2: SUBMITTING A BUDGET MODIFICATION REQUEST

If there are concerns² about the proposed salary for the chief public defender, the Hiring Committee should consult the salary discussion in Step 1.7 and the resources in the appendix to determine whether the recommended compensation aligns with TIDC salary guidance. If the Hiring Committee believes the recommended salary is not competitive, the committee should raise the issue with the full Oversight Board. The Board may then discuss a possible salary increase with the county judges.

If the need for a salary increase is locally approved, a formal budget modification request must be submitted to TIDC's executive director for approval.

² For example, if the salary budgeted is not consistent with equivalent positions in the District Attorney or County Attorney's Office, comparable programs in the area, or TIDC's Salary Study, then a budget amendment may be warranted.

Grant adjustments consisting of reallocations of funds among or within budget categories in excess of \$10,000 or ten percent of the original grant award, whichever is less, are considered budget adjustments, and are allowable only with prior approval of the executive director of the Commission. Grantees must notify the Commission in writing of reallocations of funds among or within budget categories below this threshold. If a reallocation of funds among or within budget categories results in the cumulative amount of budget changes within the same fiscal year reaching \$10,000 or 10% of the original grant award, whichever is less, the adjustment is allowable only with the prior approval of the executive director of the Commission. *1 Tex. Admin. Code §173.306(b) (2023)*

The request must:

- State the amount of the salary increase,
- Clearly justify the need for the salary adjustment,
- Explain how the increase will be funded (e.g., by reallocating funds within the existing budget), and
- Be signed and submitted by the program's authorized official.

If the request involves eliminating staff positions, reducing salaries, or altering program activities, a

Budget Modification Request must be approved by TIDC's Board. *See 1 Tex. Admin. Code §173.306(c) (2023).*



If a budget modification to increase the chief public defender's salary is submitted to the executive director or TIDC's Board for approval, the job announcement may not be posted until approval is obtained.

STEP 5.3: SUBMIT THE CHIEF PUBLIC DEFENDER JOB POSTING TO TIDC FOR APPROVAL

Before posting the chief public defender position, the job description must be reviewed and approved by TIDC. Once approved, the position should be posted in accordance with the host county's job posting procedures, and TIDC notified so the position can be listed on the *Texas Public Defense Job Board*.

ACTIVATION: EXPENSES AND OPERATING PLANS

TASK 6	Access Grant Funds
TASK 7	Hire and Onboard the Chief Public Defender
TASK 8	Develop and Adopt the Public Defender’s Office Plan of Operation
TASK 9	Update County Indigent Defense Plans

TASK 6: ACCESS GRANT FUNDS

Task lead: County/host county auditor

Recommended participants:

- County judge/host county judge
- Oversight Board

STEP 6.1: GRANT FUNDS ALLOWED TO BE OBLIGATED

Funds may not be spent before the beginning of the grant period specified in the Statement of Grant Award (SGA). The grant period begins on October 1 and ends on September 30 of the following year. Grant rules and statutory references should be closely reviewed to ensure compliance. *See 1 TX. Admin. Code §173.201-204. §173.302, TIDC Grant Rules 2.1-2.10, 3.1-3.6, 5.3, and 5.4, and the TXGMS manual.*

STEP 6.2: CREATE A PUBLIC DEFENDER DEPARTMENT IN COUNTY GOVERNMENT

By October 1, the host county auditor must create a separate departmental account for the public defender’s office. This ensures program funds are clearly segregated from other county funds, including the general fund, and allows for the accurate submission of quarterly expenditure and staffing reports to TIDC. *See Tex. Code Crim. Proc. Art. 26.044(b).*

TASK 7: HIRE AND ONBOARD THE CHIEF PUBLIC DEFENDER

Task lead: Oversight Board members

Recommended participants:

- Commissioners court
- County human resources
- County auditor

STEP 7.1: HIRE THE CHIEF PUBLIC DEFENDER

When the Oversight Board is prepared to recommend a chief public defender candidate to the host county or extend an offer to a prospective chief public defender, the following steps must be taken:

1. Notify the county judge/host county judge and participating county judges.
2. Submit a recommendation or formal hiring request to the county judge and commissioners court for review and approval.
3. Obtain official approval from the commissioners court and county judge.
4. Extend an employment offer to the selected candidate only after approval is granted.



Ensure the county's hiring procedures are followed when extending employment offers.

STEP 7.2: ONBOARD THE NEW CHIEF PUBLIC DEFENDER

Once an offer has been extended and the selected candidate has accepted the position, the Oversight Board must promptly notify the county auditor and human resources office and follow the county's hiring procedures when making the offer. The human resources office onboards the chief public defender.

Notify TIDC so the chief can be onboarded with the Commission.



Prompt notification assures timely onboarding and avoids delay in adding the chief public defender to the county payroll.

TASK 8: DEVELOP AND ADOPT THE PUBLIC DEFENDER'S OFFICE PLAN OF OPERATION

Task lead: Chief public defender

Recommended participants:

- Public Defender Oversight Board
- Commissioners court

STEP 8.1: DRAFT PUBLIC DEFENDER'S OFFICE PLAN OF OPERATION

A plan of operation is required to be submitted by a government department serving as a PDO under *Tex. Code Crim. Proc. Art. 26.044 (b-1) and (c-1)*. Similarly, if a county is contracting with a nonprofit corporation to serve as a PDO, the county must solicit proposals that contain the same elements as a plan of operation. *See Tex. Code Crim. Proc. §26.044 (c) and (c-1)*.

The chief public defender and Public Defender Oversight Board are jointly responsible for drafting the plan of operation for a county department, which must reflect operations across all participating counties. Many details may already be defined in the program application or the SGA; therefore, consult these documents to avoid duplicative efforts. The plan of operation must be approved by the county judge/host county judge and adopted by the commissioners court (if a rural regional program, the plan must be adopted by all participating counties' commissioners courts). *See Tex. Code Crim. Proc. §26.044(b) and (c-1) and TIDC Grant Rules 5.8 and 5.9.*

STEP 8.2: CONSULT STATUTORY REQUIREMENTS AND GRANT RULES

Per *Tex. Code Crim. Proc. Art. 26.044(c-1)*, the plan of operation or nonprofit proposal must include:

- Office budget, including personnel salaries
- Description of each personnel position
- Maximum allowable caseloads per attorney
- Provisions for personnel training
- Anticipated overhead costs
- Policies for using licensed investigators and expert witnesses
- Conflict of interest policy to prevent improper representation



No case appointments to the PDO may be made until Tasks 8 and 9 are completed and the ID Plan and Plan of Operations have been submitted to TIDC.

STEP 8.3: CONSIDER INCLUDING RECOMMENDED COMPONENTS

- Percentage of cases appointed to the PDO
- Types of cases handled (felony, misdemeanor, juvenile, etc.)
- Case definition, caseload guidelines and tracking, and reporting methods
- Types of data to be collected
- Data-sharing agreements with:
 - Sheriff's office
 - County jail
 - Municipal police departments
 - County and district clerks
 - County auditor

Stakeholders will need to develop a caseload policy in accordance with Rule 5.11 and statutory guidance.

Counties must develop a written policy that includes caseload standards for the public defender office and that is consistent with research-based weighted caseload guidelines published by TIDC. The caseload policy must require the chief public defender to review caseloads at least quarterly. The chief public defender must notify TIDC and the program's Oversight Board in writing if caseloads exceed the adopted standards. *See TIDC Grant Standards 5.11 and Tex. Code Crim. Proc. §26.044(c-1)(3).*

High caseloads contribute to a 'meet and plead' system that can result in serious incidents of attorney error. . . . Attorneys with too many cases are unable to abide by professional rules of conduct as the time is simply unavailable 'to interview their clients properly, effectively seek their pretrial release, file appropriate motions, conduct necessary fact investigations, negotiate responsibly with the prosecutor, adequately prepare for hearings, and perform countless other tasks that normally would be undertaken by a lawyer with sufficient time and resources.' Overburdened defense attorneys have made mistakes resulting in wrongful convictions or excessive sentences for their clients, distorting and threatening individuals' right to counsel.

— *Juvenile Addendum: Guidelines for Indigent Defense Caseloads*, p. 4

In 2013, the Texas Legislature instructed TIDC to “conduct and publish a study for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that...allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation.” *See House Bill 1318, Section 8, 83rd Texas Legislature.* The *Guidelines for Indigent Defense Caseloads* study, conducted by the Public Policy Research Institute at Texas A&M University (PPRI), recommended reasonable caseloads for attorneys representing adult defendants and the *Juvenile Addendum: Guidelines for Indigent Defense Caseloads*, performed the same for attorneys representing juvenile clients.

The PPRI studies determined that for the delivery of reasonably effective representation, attorneys representing indigent clients should carry annual full-time equivalent caseloads of no more than the cases noted in *Chart 8.4.1*.

STEP 8.4: OBTAIN APPROVAL AND SUBMIT TO TIDC

The chief public defender presents the draft plan of operation to:

- Oversight Board
- County judge/host county judge
- Participating county judges

Upon endorsement, the county judge/host county judge submits a formal request letter to the commissioners court/host county commissioners court seeking adoption. Once adopted, the plan is included in the updated county indigent defense plans and submitted to TIDC for review.

Chart 8.4.1: TIDC Caseload Guidelines

TIDC Caseload Guidelines			
	Offense Grade	Cases Per Year	The following discussion is included to explain why establishing a caseload policy is a statutory duty and a mandatory grant condition and to assist stakeholders in drafting this policy. Once the program's caseload policy is established, keeping track of attorney caseloads is the chief public defender's responsibility. The chief public defender must monitor PDO attorney caseloads and report this data to TIDC each quarter. If the PDO attorneys' caseloads are above the guidelines, the chief public defender must promptly notify all judges and TIDC because appointments may need to be temporarily paused or, in certain circumstances, refused until such time as the PDO can accept cases again.
Adult	Class B Misdemeanors	236	
	Class A Misdemeanors	216	
	State Jail Felonies	174	
	Third Degree Felonies	144	
	Second Degree Felonies	105	
	First Degree Felonies	77	
			Applying these guidelines to a public defender's caseload is accomplished by first dividing the number of assigned cases by the maximum number of cases associated with that case type. Then all case-specific numbers are added together to discover if the attorney's caseload is equivalent to a 1.0 full-time equivalent (2,087 yearly hours worked) employee.
Juvenile without Investigator	CINS/misdemeanors	210	
	Non-determinate sentence/non-certification felonies	108	
	Determinate sentence/certification felonies	30	As an example, a first-degree qualified public defender is appointed with 46 1st degree felonies, 80 2nd degree felonies, 50 state jail felonies, and 75 Class A misdemeanors over a year. Is this attorney's caseload within the guidelines?
Juvenile with Investigator	CINS/misdemeanors	230	
	Non-determinate sentence/non-certification felonies	127	1st Degree Felonies (46,77) = 0.60 2nd Degree Felonies (80,105) = 0.76 State Jail (50,174) = 0.29 <u>Class A (75,216) = 0.35</u> TOTAL = 2.0
	Determinate sentence/certification felonies	36	

See also: *Updated Performance Guidelines in Criminal Cases: Continuing Progress for Texas Criminal Justice*, State Bar of Texas Board of Directors (2022), and *Performance Guidelines for Juvenile Representation in Delinquency Proceedings*, State Bar of Texas Board of Directors (2017).

TASK 9: UPDATE COUNTY INDIGENT DEFENSE PLANS

Task lead: Judges who approve Indigent Defense Plans for participating counties (such as local administrative district court judges, local administrative county court judges, Chairman of the Juvenile Board)

STEP 9.1: UPDATE COUNTY INDIGENT DEFENSE PLANS (ID PLANS)

Before the public defender's office may begin accepting cases, even in a limited capacity, the Indigent Defense Plans (ID Plans) for each participating county must be amended.

STEP 9.2: INCORPORATE REQUIRED CONTENT

ID Plans are critical to the effective functioning of a county or rural regional public defense system. ID Plans are publicly available documents that provide detailed descriptions of how the local indigent defense system operates. As such, ID Plans are required to be submitted to TIDC on November 1 of every odd-numbered year and when changes are made to the public defense system. *See TIDC Grant Rules 5.12 and Annual IDER Procedures.* There are numerous statutory elements, but this list highlights changes that must be incorporated when a TIDC grant-funded public defender office is established:

- Public defender priority in appointment processes
- Detailed process for appointing the PDO
- Incorporation of the public defender's office plan of operation
- Compliance with all statutory requirements under *TX Code of Criminal Procedure Art. 26.044 and 26.04(a)*

STEP 9.3: APPROVAL AND SUBMISSION PROCESS

Judges (or their designees) in each participating county must approve the amended ID Plan. If the county is a member of a rural regional public defender's office, each county's ID Plan must be individually updated and approved. *See TIDC Grant Rules 5.9.* The public defender's office plan of operation must be included with the amended ID Plans and submitted to TIDC via the Data Portal. *See TIDC Grant Rules 5.9.*

IMPLEMENTATION: REPORTING, FACILITIES, AND STAFFING

TASK 10	Submit Quarterly Reports and Grant Renewals to TIDC
TASK 11	Recruitment Challenges and Support
TASK 12	Office Space and Equipment
TASK 13	Draft PDO Case Representation Policies and Procedures Manual

TASK 10: SUBMIT QUARTERLY REPORTS AND GRANT RENEWALS TO TIDC

Required participants:

- Host county auditor
- Chief public defender

STEP 10.1: SUBMIT QUARTERLY EXPENDITURE REPORTS

The financial officer must submit quarterly expenditure reports in addition to the annual expenditure report required by Texas Government Code §79.036(e). Actual expenditures must be comprehensively documented, and this documentation must be provided to TIDC upon request. Additionally, the financial officer works with the chief public defender upon hire to file the initial staffing and progress reports. *See 1 TX Admin. Code §173.304 (2023), TIDC Expenditure Categories and Reporting Schedule, TIDC Grant Rules 3.3, 5.12, and 5.13, and “How to File an Expenditure Report” available on TIDC’s YouTube Channel. Chart 10.1.1 contains the reporting schedule.*

Note: Grantees must apply any program income to expenses prior to submitting reimbursement claims under the grant.



Funds must be expended, not merely obligated, before being included in the grant expenditure report.

STEP 10.2: FILE QUARTERLY PROGRESS AND STAFFING REPORTS

The chief public defender is responsible for filing quarterly progress reports. These reports are required per the terms of the SGA to help TIDC monitor implementation, identify challenges, and guide support. *See 1 Tex. Admin. Code §173.310 (2023), and TIDC Grant Rules 5.12 and 5.13.*

Quarterly progress reports must be submitted to TIDC according to the schedule noted in the SGA. These reports must detail “performance and progress towards goals and objectives,” and continuing funding eligibility is dependent upon “show[ing] the scope of services provided and the impact and quality of those services.” *1 Tex. Admin. Code §173.310 (2023).*

Before program operations begin, the chief public defender should consult the program grant application to determine program goals and objectives established by county stakeholders. *See TIDC Grant Rules 1.1-1.10.* The chief public defender thereafter collaborates with TIDC to define data categories the office will monitor (e.g., case data, caseloads, outcomes, etc.) and how this data will be tracked, reported, and utilized.

In addition to quarterly progress reports, the chief public defender must track and report annually on the Indigent Defense Expenditure Report staffing details, including hire dates, separation dates, vacancies, and actual salaries each month for each position funded under the grant. *See TIDC Grant Rules and “How to File a Progress Report”.*

Chart 10.1.1 Required Reports and Deadlines

Reporting Period	Report Type Due	Due Date	Fund Distribution Date
November	Update Indigent Defense Plan Submit Public Defender Office Plan	November 1	
Q1: October - December	Grant Expenditure Report Progress Report	January 15	February 1
Q2: January - March	Grant Expenditure Report Progress Report	April 15	May 1
Q2: January - March	Submit Office Policies & Procedures	April 15	
January	Submit Grant Renewal	February 1	
Q3: April - June	Grant Expenditure Report Progress Report	July 15	August 1
Q4: July - September	Grant Expenditure Report Progress Report	October 15	December 1

STEP 10.3: FILE GRANT RENEWAL APPLICATION

The chief public defender submits the Annual Grant Renewal Application, which is required to maintain continued TIDC funding for multi-year and sustainability grants. The application is a simplified renewal, not a full re-application. The Renewal Application must include a new commissioners court resolution. The Application must note updated program information, staffing, and any significant program changes, as well as describe program outcomes. A Budget Adjustment Request applicable to the upcoming fiscal year may also be filed with the Grant Renewal Application. The Application must be submitted by the deadline announced annually for the Request for Applications (RFA) on the [TIDC Grants Page](#). See 1 TX Admin Code §173.308 and TIDC Grant Rules 2.7 and 5.20.

TASK 11: RECRUITMENT CHALLENGES AND SUPPORT

Recommended participants:

- Chief public defender
- Oversight Board

STEP 11.1: RECRUITING CHALLENGES AND RESOURCES

Recruiting qualified attorneys is a critical and complex step in launching an effective public defender's office—especially considering Texas's current shortage of criminal defense attorneys, a problem that is particularly severe in rural areas. The February 2025 [Texas Tribune](#) article, "A Shortage of Criminal Defense Attorneys Threatens Indigent Right to Counsel In Rural Texas," provides a useful overview of this issue, but for a more in-depth analysis, please see [Justice Beyond the Cities: The State of Rural Public Defense in Texas](#), a report prepared by Texas A&M University for TIDC.

We've seen our numbers drastically reduced in these rural [areas] and the counties surrounding us have the same exact problems, probably one-half to one-third of the number of attorneys that we had just 15 years ago, we have now.

- *Justice Beyond the Cities*, p. 23

This shortage has significant implications for new public defender offices. Recruitment delays may impact the office's ability to begin accepting cases as quickly as stakeholders expect, and the consistency of client representation might be affected if there is an inability to retain qualified staff. Consequently, recruitment and retention strategies should be built into early planning and budgeting. Recruiting and retaining skilled staff not only ensures consistent, high-quality representation for clients and strengthens community trust, but also reduces the financial and operational costs associated with turnover.

Support from TIDC:

- All chief public defenders are provided a copy of the TIDC Texas Recruitment Guide.
- TIDC will provide job posting assistance by sharing job openings on the [Texas Public Defense Job Board](#).
- TIDC appears at multiple recruitment events throughout the year and will share the schedule or program brochures upon request.

TASK 12: OFFICE SPACE AND EQUIPMENT

Task lead: Chief public defender

Recommended participants:

- Oversight Board
- County judge/host county judge

STEP 12.1: SECURE APPROPRIATE OFFICE SPACE

Stakeholders, including county judges, auditors, commissioners, and the Oversight Board, should coordinate with the chief public defender to secure office space using the same processes applied to other county departments. The county may want to begin this process before the chief public defender is hired; however, ideally, the chief should have input into the location and design of the office. *See Key Considerations When Evaluating Office Spaces graphic.*

STEP 12.2: PURCHASING EQUIPMENT

TIDC Grant Rules require grantees to purchase equipment from the Texas Department of Information Resources and maintain an inventory of equipment purchased with grant funds. All equipment purchased with grant funds may include up to three years of maintenance to ensure the equipment will operate as intended during and beyond the grant period. Software developed with grant funds must conform to applicable industry information exchange standards, including the National Information Exchange Model (NIEM) and the Electronic Case File (ECF) four standards. *See TIDC Grant Rules 2.8, 3.5, 5.17, and 5.18.*

As with office space, counties may wish to purchase equipment prior to hiring the chief public defender. Stakeholders should keep in mind, however, that grant funds may not be obligated until October 1, and the chief public defender should have input regarding equipment purchases, particularly the case management system.

KEY CONSIDERATIONS WHEN EVALUATING OFFICE SPACES



SECURITY

- Consider the personal safety of staff, especially court appearances that extend past standard business hours.
- A secure door should separate staff offices and meeting rooms from public entry and waiting area.



COST TO PROGRAM

- Prioritize space in county-owned buildings to minimize costs and utilize existing assets.



CONFIDENTIALITY

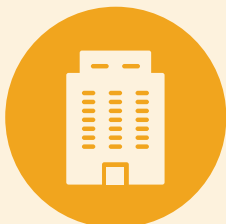
- Office layout must support private, confidential communication between defenders, clients, and staff.



ACCESSIBLE & ADA COMPLIANT

Office should be:

- Easy to locate
- Accessible by public transportation (if available)
- Offer ample free parking
- ADA compliant



ADEQUATE & FLEXIBLE SPACE

Ensure:

- Sufficient private offices for attorneys and staff
- Break room with basic amenities (refrigerator, microwave, sink)
- Consideration for remote or hybrid work arrangements, especially if staff frequently travel to court, jails, or client meetings

TASK 13: DRAFT PDO CASE REPRESENTATION POLICIES AND PROCEDURES MANUAL

Task lead: Chief public defender

Recommended participants:

- Public Defender Oversight Board

STEP 13.1: DRAFT POLICY AND PROCEDURES MANUAL

The chief public defender is responsible for developing a Policy and Procedures Manual specific to the public defender's office. This manual should:

- Incorporate and adapt the personnel policies of the host county (or applicable county);
- Provide clear internal guidance on operations, supervision, training, and staff expectations; and
- Be updated regularly to remain compliant with both TIDC grant conditions and state and local laws.

See TIDC Grant Rules 5.10 and TX Bar Association's Performance Guidelines – Adults & Juveniles.

INAUGURATION: COMPLETE TASKS AND OPEN OFFICE

TASK 14 **Finalize Preparations**

TASK 15 **Begin Accepting Cases**

TASK 14: FINALIZE PREPARATIONS

Task lead: Chief public defender

Recommended participants:

- Public Defender Oversight Board
- County judges
- Participating county judges (rural regional programs)

STEP 14.1: COMPLETE ANY REMAINING TASKS

The chief public defender and the Oversight Board share the responsibility for ensuring that the public defender's office is fully prepared to accept and manage cases. This includes, but is not limited to:

- Operating within the approved budget
- Coordinating operational functions across all involved counties or jurisdictions
- Managing caseloads within established limits
- Implementing clear representation policies

To verify that the office is ready for case appointments, review the program checklist to ensure that all tasks and subtasks have been completed.

TASK 15: BEGIN ACCEPTING CASES

Task lead: Chief public defender

Recommended participants:

- Public Defender Oversight Board
- County judges
- Participating county judges (rural regional programs)

STEP 15.1: OFFICE OPENS

The public defender's office may start accepting cases once all tasks are completed, in particular updating county Indigent Defense Plans and submitting them to TIDC along with the office plan of operations, and all necessary staff to start operations have been hired and onboarded. The office can begin accepting cases without being fully staffed if adequate staff have been hired and the office is operational.

If the office is not fully staffed, it cannot accept the full caseload described in a TIDC planning study and the program's grant application. This is especially true if not all attorneys have been hired. Staffing levels must be taken into consideration by all stakeholders when determining how many cases can be accepted by the office at any time.

CONCLUSION

Please notify TIDC staff when the office is fully operational so we can share this news with our Board and throughout our networks. Contact TIDC if you have any questions about establishing your public defender office.

CONTACT TIDC



(512) 936-6994



info@tidc.texas.gov
grants@tidc.texas.gov
improvement@tidc.texas.gov



209 West 14th Street, Room 202
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APPENDIX

Appendix A.	Checklist to Set Up a Regional Public Defender Office After a Grant Award from TIDC
Appendix B.	A Short Guide to Texas Public Defender Oversight Boards Including Sample Language
Appendix C.	Sample Chief Public Defender Job Advertisement
Appendix D.	Sample Chief Public Defender Interview Questions
Appendix E.	TIDC Grant Requirements
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Appendix G.	TIDC Grant Rules and Requirements
Appendix H.	Texas Chief Public Defender Hiring Rubric
Appendix I.	TIDC Expenditure Categories
Appendix J.	TIDC Grant Budget Adjustment Request
Appendix K.	Draft For Exhibit A - Interlocal Agreement Rural Regional PDO
Appendix L.	Rural Regional PDO Interlocal Agreement - Nonprofit Contractor
Appendix M.	Rural Regional PDO Interlocal Agreement - County Department PD

Appendix A. Checklist to Set Up a Regional Public Defender Office After a Grant Award from TIDC

Item	Requirement	Date	Notes/Statutory Requirements	Date Completed
1	Statement of Grant Award: Review, County Judge sign, and submit to TIDC.	Month 1 (Sept. usually)	All of the requirements for the grant, including many of the tasks below and reporting requirements, are spelled out in the Statement of Grant Award (SGA).	
2	Oversight Board: Develop makeup of board and bylaws of Oversight Board in conjunction with TIDC and county judges.	Month 1	The Commissioners Courts must establish per the SGA.	
3	Interlocal Agreement: Develop and have all county judges sign and Commissioners Courts from participating counties approve.	Month 1-2	See Code of Criminal Procedure (CCP) art. 26.044(b) for minimum requirements of interlocal agreement to establish a regional public defender office, including powers and duties of Oversight Board.	
4	Chief Public Defender Job Description: Develop with assistance of TIDC and post Chief Defender job opening.	Month 1-2	This can be done before or after the first Oversight Board meeting. TIDC can help distribute job opening to its public defense networks. Submit the job description to TIDC prior to publicly posting per the SGA.	
5	Public Defender Oversight Board: Have first meeting; adopt bylaws; establish vetting and hiring process for Chief Public Defender.	Month 1-2	TIDC can assist in developing bylaws. Send approved bylaws to TIDC.	
6	Indigent Defense Plan: Judges hearing criminal cases in the counties need to modify their Indigent Defense Plans to reflect priority appointments to the public defender's office and other changes to indigent defense system.	Month 1-2	Submit new Indigent Defense Plan to TIDC for approval.	
7	Hire Chief Public Defender: Oversight Board picks Chief Public Defender and submits to County to hire.	Month 2	Chief's hiring should be effective October 1 or later, since that is beginning of TIDC grant period.	
8	Public Defender Office Plan: Chief and Oversight Board develop written plan for Public Defender Office, including caseload standards.	Months 2-3	Required per CCP art. 26.044(b-1). The written plan must include all elements in CCP art. 26.044(c-1). Submit to TIDC prior to accepting appointments per SGA.	
9	Office Space Build-out, Equipment Purchasing: Chief works with Oversight Board, County, and TIDC to design and build office space, purchase office equipment.	Months 2-4	County may want to begin this process before Chief is hired, but ideally Chief should have input into design of the office and office equipment. Expenses should not be incurred prior to Oct. 1.	
9	Staff Hiring: Develop job descriptions of staff; chief interviews; hires made.	Months 2-4	Submit to TIDC prior to publicly posting per SGA. Submit to TIDC per SGA.	
10	Case Representation Policies and Procedures Manual: Chief develops in conjunction with Oversight Board and TIDC.	Submit to TIDC w/ 2nd Quarterly Report.		
11	Quarterly Progress Reports	Q1: Oct.-Dec. Q2: Jan.-Mar. Q3: Apr.-June Q4: July-Sept.	Submit to TIDC per SGA.	
12	Quarterly Expenditure Reports	Q1: Oct.-Dec. Q2: Jan.-Mar. Q3: Apr.-June Q4: July-Sept.		
14	BEGIN ACCEPTING CASES	Months 5-6	The office can begin accepting cases earlier if adequate staff have been hired and the office is operational.	



Appendix B. A Short Guide to Texas Public Defender Oversight Boards Including Sample Language

TIDC requires an oversight board for any public defender office established with TIDC funds. The county or counties involved should determine the board's composition and responsibilities, which will differ based on whether the office is county- or nonprofit-run. An oversight board for a county department helps ensure independence from undue interference—a prerequisite for creating a public defender office according to national standards. An oversight board also prevents the concentration of power in the hands of a single individual and may incorporate diverse perspectives that help guide the office. Every public defender office created since passage of the Fair Defense Act has included an oversight board.

Board Composition

Consider the following when creating a public defender board:

- Public defender boards should comprise an odd number of board members—often 5, 7, 9, 11, or 13.
- Board members should be selected by a variety of sources, such as by the commissioners court, local judges, community groups, law school faculty, or TIDC. This is true, even if a commissioners court ultimately confirms board member appointments.
- Membership should be diverse, knowledgeable about public defense, and representative of a variety of public defense stakeholders, including the following:
 - o County Commissioners
 - o Judiciary
 - o Community Groups
 - o Defense Bar
 - o Formerly incarcerated persons or their family members
 - o Academia
 - o Texas public defense community, including other public defense leaders
- Members should be free from interests that would pose a conflict with the public defender office. Membership should not include prosecutors, law enforcement, probation officers, private attorneys taking assigned cases in the same jurisdiction, or judges before whom the public defender office will practice law.
- While it's helpful to consider which individuals will populate the initial board, to ensure the office's longevity, it's important to also consider each position as a category or slot (e.g., County Commissioner position, Defense Bar position) that will be filled by multiple individuals over the years. Consider how each position will contribute to the public defender office's success.

- Consider how to stagger terms of office, so that institutional memory is not lost in one fell swoop.
- Consider the length of each term—often, 2, 3, or 4 years per position.
- See Texas Code of Criminal Procedure, art. 26.045.

SAMPLE BOARD COMPOSITION LANGUAGE

The oversight board shall comprise seven members:

- (1) A county commissioner, selected by the commissioners court;
- (2) A private criminal defense attorney who does not receive assigned counsel cases in _____ County(s), selected by the local defense bar association;
- (3) A law professor focused on criminal law, selected by the dean of X law school;
- (4) A chief public defender or other public defense leader (not employed by this public defender office), selected by the Executive Director of the Texas Indigent Defense Commission;
- (5) A judge before whom the public defender does not practice law, selected by the administrative judge;
- (6) A formerly incarcerated person or family member, selected by the commissioners court;
- (7) A community leader, selected by the commissioners court.

All members shall be confirmed by the commissioners court. All members should be knowledgeable about criminal justice. Membership shall not include prosecutors, law enforcement, probation officers, private attorneys taking assigned cases in this jurisdiction, or judges before whom the public defender office will practice law. Members shall serve staggered two-year terms.

Board Duties

Board responsibilities vary, but most include (1) selecting and recommending a chief public defender; (2) setting high-level policy; and (3) ensuring the public defender office's success. Public defender offices should be overseen by an experienced chief public defender. Boards are ideally suited to select that chief defender. The chief defender usually leads and manages the office's daily operations, while boards are well suited to setting high-level policy for the office (such as the scope of the office, office expansions, or other big picture decisions), as well as helping to set and support budget requests.

SAMPLE BOARD DUTY LANGUAGE

The Public Defender Oversight Board (hereinafter referred to as Oversight Board or Board) was created by X County Commissioners Court on [date]. The Board's duties include the following:

- Screening, interviewing, and recommending a chief public defender. Helping to guide the chief public defender as necessary. Removing the chief public defender as necessary.
 - Providing strategic guidance, review, and approve the program's policies and procedures and organizational structure, including the Plan of Operation required under Texas statute (Tex. Code of Crim. Proc. art. 26.045(b-1), (c-1)).
 - Developing and monitoring the program budget and operations and providing strategic guidance on challenges faced by the program and long-term sustainability.
 - Advising the chief public defender on hiring, as requested.
 - Generally supporting the public defender office's success.
-

Board Meetings

Consider the following when setting the rules for board meetings:

- Boards should meet at least quarterly.
- A majority of the members should be able to call a special meeting, as necessary.
- Determine what will constitute a quorum. It's common to require a majority or supermajority of members.
- Consider appointing the following officers:
 - o Chair
 - o Vice-chair
 - o Secretary
- Determine who will take minutes. This is often the secretary.
- Determine how to fill vacancies. Often, a vacancy is filled by the appointing authority described in the board composition section. Sometimes it is filled by the board by a majority vote.
- Determine whether you will accept alternates or proxies. Often, if a member is unable to attend a meeting, an alternate can be allowed to represent the member's

- interests and provide information or input from the member's perspective, but is not allowed to vote or count toward establishing a quorum. Determine when
- agenda items should be submitted and an agenda distributed. Determine whether
 - the meeting should be open to the public. Generally, meetings should be open to the public. Determine whether the Open Meetings Act will apply. If the Open
 - Meetings Act does not apply, determine whether the board wishes to follow the Open Meetings Act nonetheless. Consider the chief public defender's role at each meeting.
 -

SAMPLE BOARD MEETING LANGUAGE

- The Board shall meet quarterly.
- A majority of board members may call a special meeting, as necessary.
- Five of seven members shall constitute a quorum.
- Board positions—chair, vice-chair, and secretary—shall be voted on by the board every 2 years. Board members shall serve a maximum of two 2-year terms.
- The secretary shall take attendance at each meeting. Although in-person attendance is encouraged, remote attendance shall also suffice.
- Should a board member be unable to attend, they may send an alternate to represent the member's views and interests. However, the alternate shall not vote. Alternates do not count toward establishing a quorum.
- Board vacancies shall be filled by the appointing authorities described above.
- The board chair shall set board agendas and preside over each meeting.
- Board members should submit agenda items at least 1 week prior to each meeting.
- The vice-chair shall function as chair in the chair's absence.
- Although the Open Meetings Act does not apply to this Board, the Board shall attempt to follow the Act as closely as is possible.
- The chief public defender shall provide a verbal or written update to the Board at each quarterly meeting.



Appendix C. SAMPLE CHIEF PUBLIC DEFENDER JOB ADVERTISEMENT

[Name of Public Defender Office] Chief Public Defender

Salary: \$x

Location: [county or counties]

Job Type: Full-time

Deadline: [date and time by which all written materials should be submitted]

Summary

The [office name] Public Defender Office will provide quality legal defense to persons who cannot afford counsel in [describe scope, whether felony, misdemeanor, juvenile, mental health, or otherwise] cases in [name county or counties].

The Chief Public Defender will lead an office of approximately [number] attorneys and [number] staff. The office will represent approximately [number] persons in [name type of cases] each year. The Chief will be a full-time employee of [name county or nonprofit]. The Chief will carry a limited (less than 5%) caseload. Outside legal work is prohibited.

This is an opportunity to help create a holistic, client-centered public defender office from the ground up.

Job Responsibilities

The Chief Public Defender ensures that the office provides quality criminal defense representation that complies with federal and state constitutions, state statutes, ethical rules, and state and national best practices.

The Chief oversees and provides representation of defendants [describe scope of representation].

The Chief will ensure that all attorneys and staff are trained to comply with state and federal constitutions, state and federal laws, ethical rules, and best practices, including holistic, client-centered representation.

The Chief supervises professional and support personnel.

The Chief allocates resources for services, equipment, facilities, and finances planning and advocating for future services and budgetary needs of the office.

The Chief hires, evaluates, disciplines, and dismisses attorneys and staff.

The Chief supervises planning, development, preparation, and monitoring of annual budget, grant funding, and statistical reports.

The Chief directs staff on legal issues, case dispositions, and advocacy.

The Chief represents the public defense function in criminal justice coordinating meetings with clients, judges, prosecutors, commissioners, and others.

The Chief presents to social and civic groups, incarcerated persons, and other organizations to explain, publicize, and promote the public defender program and defendants' rights.

The Chief represents the Public Defender Office in appropriate public and professional meetings and conferences; in interactions with state, county, and municipal officials; county and state bar associations; and citizen groups.

The Chief reports regularly to the [name of organization] Oversight Board and [name of county] Commissioners Court.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

Minimum Qualifications

- Juris Doctor
- Texas bar license or the ability to obtain Texas bar license within four months

Experience

Candidates for Chief Public Defender should possess leadership, litigation, public defense, supervision, management, and budgeting skills:

- Has led a legal organization as chief, director, or deputy chief for at least 5 years.
- Has litigated criminal cases for at least 7 years. Has tried at least 15 cases to verdict.
- Has worked as a lawyer in a public defender office for at least 5 years.
- Has supervised at least 5 attorneys and staff. Has served as a supervisor for at least 4 years.
- Has managed daily operations for a legal organization for at least 4 years.
- Has helped create or oversee an organizational budget.

Priority will be given to candidates who meet or exceed the description above.

Skills

Advanced research, writing, and advocacy skills.

Leadership, supervision, management, budgeting, and organizational skills.

Advanced knowledge of the rules of evidence, case law, Penal Code, Code of Criminal Procedure.

Ability to motivate, train, supervise, and develop attorneys and support staff.

Appendix D. Sample Chief Public Defender Interview Questions

1. Introductory Questions

- What inspired you to pursue a career in public defense?
- Describe one of your best days as a public defender.
- What motivates you to take on the role of Chief Public Defender?

2. Independence

- How would you ensure that client representation in [insert your county] County is professional and free from political influence?

3. Supervision

- Tell us about a time when you enjoyed supervising a lawyer. What made it successful?
- Describe a time when you faced challenges supervising a lawyer. What did you learn?
- What steps would you take to ensure effective supervision of attorneys and staff?

4. Budget and Fiscal Management

- Share an experience where you prepared a budget for an office or program.
- Describe a difficult budget decision you had to make and how you handled it.

5. Problem-Solving

- Tell us about a difficult decision you made that, in hindsight, you would have approached differently.
- A judge calls to complain about a staff attorney's behavior. How do you respond?

6. Data and Evaluation

- What types of data would you prioritize collecting in this office?
- How would you use data for supervision, performance evaluation, and office improvement?

7. Training and Professional Development

- How would you continue to develop your own leadership and management skills?
- How would you ensure staff attorneys and team members improve their skills?
- Describe any training programs you have created or led, especially those related to mental health and developmental disabilities.

8. Criminal Defense Experience

- Please describe your criminal defense background, including:
 - o Types and number of clients represented
 - o Number of jury trials

- o Experience with low-income clients
 - How familiar are you with Texas criminal law and procedures?
-

9. Mental Health and Developmental Disabilities

- Describe your experience representing clients with mental illness or intellectual and developmental disabilities:
 - o Types and number of cases handled
 - o Competency trials, if any
 - o Emphasis on experience with low-income clients
 - Have you completed any specialized training in mental health, competency evaluations, or mitigation?
-

10. Coaching and Staff Development

- How do you coach staff members? Provide an example of coaching someone under your supervision.
-

11. Community Engagement

- How have you collaborated with community or political leaders to improve criminal justice?
 - What approaches have you taken to work with community groups in support of client representation?
 - How would you engage with community stakeholders in [X] County?
 - Describe the community you currently work in and your role in it.
-

12. Holistic Defense

- What experience do you have helping clients address collateral consequences of convictions (e.g., immigration, housing, licensing, employment, registries)?
-

13. Language Skills

- Do you speak any languages other than English? If so, which ones?



Appendix E. TIDC GRANT REQUIREMENTS

Overview

The Texas Indigent Defense Commission (TIDC) provides financial and technical support to counties to develop and sustain quality, cost-effective indigent defense systems. TIDC's Improvement Grant Program provides program-specific funding awarded on a competitive basis. The Commission may provide Improvement Grants for any program that improves indigent defense services. The period for funding and program operation begins on October 1 and ends September 30.



This document is not a complete restatement of the program application instructions or the Statement of Grant Award (SGA) grant conditions. Instead, it is a compilation of the grant rules included in these documents with brief explanations of the information contained in each application section that will be needed for program launch tasks.

1. Information Included in the Application

1.1. Executive Summary

The Executive Summary is the abstract of the project. It describes, in one hundred (100) words or less, what the program will do and the broad goals that will be met if the program is funded.

1.2. Problem Statement

The Problem Statement describes the issue or problem the proposed program is intended to improve or correct. Information about the affected populations, social and economic costs of the issue, and resources currently available are included here along with any formal or informal data related to the problem.

1.3. Objectives

Program targets and goals that address the problem identified above are included in this section. The application provides guidance for drafting objectives.

- Objectives must be directly related to the program in this application and the funds requested.
- Objectives must be time and date specific and measurable.
- Objectives are the basis for the evaluation and progress reports.
- Objectives must be consistent with the Problem Statement.

1.4. Activities

This section describes specific program activities that will be conducted to support the objectives. Instructions, required elements, start-up tasks, staffing needs, and justification for the effectiveness or efficiency of the proposed activity are detailed. The application instructs the applicant to:

- Write this section so that outsiders know exactly what the applicant plans to do.
- Include detailed instructions of step-by-step procedures that will take place to implement the program, and the resources needed to complete each task.
- Incorporate the required elements of the program.

- List start-up tasks and the ongoing program activities that staff will perform to implement the program.
- Provide justification related to effectiveness and/or economy of the activity proposed. Include supporting research on this activity if available.
- Describe whether existing staff and/or contractors will perform tasks, reports, etc. or if new staff positions will be created to implement the program. If the program will be implemented through a contract, include information on the selection process.

1.5. Evaluation

The process that will be used to determine whether the program has met the stated objectives and the measures that will be used to demonstrate the program's impact is detailed in this section. Evaluation requirements are also included.

- Evaluation must be linked directly to the objectives and activities. The evaluation must measure both the progress made toward implementing the grant-funded activity and the effect of the program once it is in operation.
- Measure the attainment of objectives in a specific and tangible manner (e.g., "Applications of indigence and requests for appointed counsel will be accepted electronically and maintained in an online data management system").
- Measures must be quantifiable (e.g., count the number of requests for counsel received).
- Measures must be time-specific (e.g., requests for counsel will be counted from February to January and reported monthly).
- Measures must identify the way they will be recorded for future review (e.g., a case management system report). Data collection cooperation agreements with county offices and departments are strongly recommended so that the applicant can demonstrate it will be able to meet data collection and evaluation goals.
- The measure of success is determined by the goals and objectives of the proposed activity.
- Describe how milestones, accomplishments, and timelines will be tracked and recorded.
- Evaluations must demonstrate how the program impacts other county processes when applicable. Evaluations of program success should be considered from both fiscal and programmatic perspectives.

1.6. Future Funding

A description of how the proposed activity fits into the county's long-term budget planning after the grant ends is found in this section. Note: this requirement is not applicable to Rural Regional Public Defender Sustainability Grants.

1.7. Budget Narrative and Budget Form

A proposed budget is a required submission. It must clearly state the costs to implement and sustain the operation of the program. The budget narrative should justify all expenses and must be consistent with program activities and objectives. The proposed budget must include:

- All costs necessary to implement the proposed activity. Provide a narrative to detail and justify all budgeted expenses. This narrative must correspond to
- the activities section.
- Indicate in the budget and narrative the non-reoccurring start-up costs for multi- year grants.
- Indirect costs are allowable but the application will not be considered competitive if above 10%. Preferred applications will include little or no indirect cost requirements.

- The equipment line requires a list of equipment to be purchased. All equipment must be purchased in the first year of the grant unless permission is granted from TIDC in writing. Otherwise, the equipment costs will not factor into the total project cost after the first year of funding.
- Budget line items must include detailed basis of cost explanations in the budget narrative.

1.8. Commissioners Court Resolutions

Counties must submit a resolution authorizing submission of the program application. The resolution must be adopted by the County Commissioners Court, signed by the applicant's authorized official, and uploaded to the online grant application. Nonprofit organization applicants should submit a resolution adopted by their governing board authorizing the application and additional documentation of county support and coordination.



The adopted resolution is the official authorization for the grant request. It names the grant officials required in Texas Administrative Code § 173.301. It is also a pledge to take legal responsibility for the appropriate expenditure of grant funds. Finally, it certifies that the applicant will abide by all relevant rules, policies, and procedures if TIDC awards grant funds to the applicant.

1.9. Judicial Support Letters

The judiciary is responsible for each county's Indigent Defense Plan. Applications must include letter(s) of support from the judges who will participate in or implement the program. Letters must describe the level and type of commitment the judges will provide to the program.

1.10. Public Defender Office Requirements

Applicants must provide an Oversight Board plan describing the membership positions, board structure, and board responsibilities. Applicants must also provide a Leadership Selection Plan that outlines the recruitment and selection of the program's chief public defender.

1.11. Grant Officials

1.1.1. Grant Officials – Each grant application must designate the following:

- **Program Director.** This person must be the officer or employee responsible for program operation or monitoring and will serve as the point-of-contact regarding the program's day-to-day operations.
- **Financial Officer.** For counties, this person must be the county auditor or county treasurer if the applicant does not have a county auditor. Other applicants must designate the chief financial officer.
- **Authorized Official.** This person must be authorized by the commissioners court or governing board to apply for, accept, decline, modify, or cancel the grant for the applicant. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official.



Applicants are not required to name individual board members in the application, but rather board member positions, such as "member of the defense bar," "community member," or "law professor focused on criminal law."

- **The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official.**

2. Fiscal Application Requirements

2.1. Funding Conditions

TIDC may temporarily suspend grant disbursements if the following required reports and documentation are not submitted.

2.1.1. Indigent Defense Expenditure Report

All counties are statutorily required (Texas Government Code Sec. 79.036 (e)) to submit an Indigent Defense Expenditure Report each year on November 1 in the form and manner prescribed by the Commission. Counties that do not complete the Indigent Defense Expense Report on or before November 1 of each year may have payments temporarily suspended by Commission staff until the report is submitted and reconciled by staff.

2.1.2. Indigent Defense Plan Requirements

The Local Administrative District Judges, the Local Statutory County Court Judges (or County Judge as applicable) and the Chairman of the Juvenile Board for each county must submit a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure (Countywide Plans) to the Commission as required in Government Code §79.036. The Countywide Plans submitted must be in compliance with applicable statutes and rules and must meet the minimum requirements for each plan section as outlined in the Biennial Indigent Defense Countywide Plan Instructions. Plans are required to be submitted by November 1 every other year. Grant payments may be withheld until plans are submitted or meet the minimum requirements for each plan section set by Commission.

2.1.3. Compliance with Monitoring Reports

A county must respond within the required time, take corrective action for findings of non-compliance, and satisfactorily address all recommendations in a Commission fiscal or policy monitoring report.

2.1.4. Court Activity Reports to the Office of Court Administration:

County and district clerks must be in compliance with monthly court activity reporting requirements promulgated by the Texas Judicial Council.

2.2. Multi-Year Funding

Funding is available for multi-year programs (four years), or rural regional public defender sustainability grants (ongoing) to encourage innovative long-term programs to improve the delivery of indigent services. Continued awards for multi-year programs can be renewed up to program limits, but TIDC only awards funding for the current fiscal year.

2.2.1. Rural Regional Public Defender Sustainability Grants Counties with a population less than 100,000 participating with other counties in a multi-county (3+) regional public defender office are eligible for 80% reimbursement in the initial year of funding. In subsequent years of funding, participating counties must provide a cash match of 1/3rd of the total approved budget. A participating county's individual share of the cash match is determined by the interlocal agreement between participating counties. The participating counties collectively contribute the required cash match amount, typically calculated based on caseload or population.

2.2.2. Multi-Year Improvement Grants Counties must provide a cash match from county or other funds of 20% of total project costs in the first funding year, 40% the second funding year, 60% the third funding year, and 80% the fourth funding year. An applicant's use of matching funds must comply with the same statutes, rules, regulations, and guidelines applicable to the use of the Commission funded portion of a grant project.

2.3. Formula Grant Applications

Counties that receive Improvement Grants are encouraged to continue to apply for the Formula Grant. The county will submit its Indigent Defense Expenditure Report (IDER) on or before November 1 of each year. If the implementation of the grant program results in a reduction of the county's indigent defense expenditures below the baseline, formula grant funds may be withheld by TIDC.

2.4. Formulas for Calculating the Cash Match

- Total Project Cost multiplied by percent of match required = Total Match Required Total
- Project Cost minus Total Match Required = Total Commission Grant Request

2.5. Grant Disbursement

Grant funds are disbursed on a reimbursement basis according to the funded percentage in the award. The County must submit expenditure reports to obtain reimbursement of expended funds based on actual expenditures. The reimbursements will be proportional to the county's required match. See Expenditure Categories and Reporting Deadlines.

2.6. Delayed Start Policies

TIDC's Period for Funding and Program Operation is October 1 to September 30. Counties may begin to make program expenditures on October 1; however, multi-year grant programs occasionally require counties to postpone expenditures for several months. The hiring of the first program position typically marks the first month of program operation for multi-year grants.

To allow a grantee to take advantage of the typical first-year 80% cash match, the funding amounts will be calculated from the first month of program operation. If approved for continued funding, the grantee will enter the next grant period with the previous year's reimbursement rate for a temporary period that is equal to the duration of the first year's delay. The remainder of the renewed grant period will be reimbursed at the match rate for the corresponding grant year.

This process will carry forward each year until the program is complete. Grant documentation will reflect the grantee's funding schedule and any adjustments that may be required because of the delayed start of program operation.



Delayed Program Start: Example Grant Match

If a program was planned to launch in October, but does not start spending grant funding until April, six months later, the TIDC second-year grant match would be adjusted to provide the county the benefit of the other six months of an 80% grant match, and the remaining six months at the second-year grant match rate.

2.7. Continued Multi-Year Improvement Grant Renewal

TIDC generally awards funding only for the current grant year. Future funding will be based on the 1) submission of a brief application to continue funding in subsequent years up to eligible limits, 2) submission of required progress reports, 3) a demonstration of successful progress made in implementing the program, 4) a new Commissioners Court or governing board resolution, and 5) future availability of funds. Requests for scope changes, amendments or budget adjustments may be submitted with Continued Multi-Year applications

2.8. Equipment Costs

Equipment and other one-time costs will only be funded in the first year of the grant unless permission is granted by TIDC in writing. The Commission's portion of the grant and the cash match

after the first year of funding will be calculated based on the total project costs less the equipment expenses from the first year.

2.9. Fiscal Policies

- **Program Income** – Grantees must apply any program income to expenses prior to submitting reimbursement claims under the grant.
- **Supplanting prohibited** – a county may not reduce the amount of funds provided for indigent defense services because of a grant award.
- **Dual use** – If an applicant applies for an indigent defense program that may be tied to a general government process, the applicant must provide documentation and rationale to establish a basis of costs to determine the portion of a program/project that is attributable to indigent defense.
- **Fund Use** – Grant funds must be used to pay for the direct and/or administrative costs of providing and/or improving indigent defense services.

2.10. Governing Statutes, Rules, and Standards

All Commission grant programs are governed by one or more of the following statutes, rules, and standards. These documents are available at:

- Texas Government Code: [Chapter 79](#)
- Texas Administrative Code: Title 1 [Chapter 173](#) and [Chapter 174](#)
- [Texas Grant Management Standards](#) (TxGMS) as promulgated by the Texas Comptroller of Public Accounts.

3. Program Fiscal Requirements

3.1. Costs

3.1.1. Allowable Costs—Grants may be used for:

- Attorney fees for indigent defendants accused of crimes or juvenile offenses;
- Expenses for licensed investigators, experts, forensic specialists, or mental health experts related to the criminal defense of indigent defendants; and
- Other approved expenses allowed by this grant program or necessary for the operation of a funded program.

3.1.2. Unallowable Costs – TIDC has adopted the [Texas Grant Management Standards](#) (TxGMS) to determine unallowable costs. Specifically, in accordance with TxGMS and the grant rules the following conditions apply:

- General government costs are unallowable;
- Costs of law enforcement, prosecution, supervision, and incarceration are unallowable;
- Replacing existing county funding with grant funds is unallowable; and
- Funding positions that previously existed or currently exist in the county is unallowable.

See TxGMS for a full list of unallowable costs.

3.2. Failure to Begin

Failure to begin operating the program before the end of the grant award period may constitute a failure to meet performance measures unless authorized by TIDC.

3.3. Grantee Reporting Requirements

3.3.1. Maintain Official Contact Information—All counties must maintain correct grant official contact information on TIDC's [Grant, Reporting, and Plan Management Website](http://tidc.tamu.edu) (<http://tidc.tamu.edu>). Counties must advise TIDC of changes in the authorized official, program director, financial officer, local administrative district judge, local statutory county

judge and county judge by updating contact information. TIDC staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.

3.3.2. Reports— Online fiscal and program reports are required each quarter. All grants will require at least one follow-up report outside of the grant period. A reporting schedule will be provided in the Statement of Grant Award (SGA) if TIDC authorizes a grant award.

3.4. Program Records Requirements

3.4.1. Data Collection and Agreements—Grantees must collect data to support the evaluation of the program's impact and compliance with the Fair Defense Act. This may require data collection agreements from county offices or departments to provide information to the program director on a regular basis.

3.4.2. Records Retention—Grantees must maintain records related to the funded activity for at least three years after the end of the grant period. Records may be stored electronically.

3.4.3. Monitoring and Auditing—Records must be made available to TIDC or its designees upon request. (See Texas Administrative Code § 173.401 for more details.)

3.5. Program Equipment and Purchasing Requirements

3.5.1. Use DIR State Contract— Counties must purchase all technology, equipment and software from the Department of Information Resources (DIR) State Contract. A county may submit a written request for exception that demonstrates why the DIR contract cannot be used for this project or is not cost-effective. Entities not eligible to purchase under the DIR contract must adopt and follow procurement policies and document cost comparisons prior to making equipment purchases.

3.5.2. Inventory—Equipment purchased with grant funds by a county is the property of the county. Non-county grantees must include in their proposal a plan for equipment purchased with grant funds when the program ends. TIDC requires each grantee to maintain an inventory record of all equipment purchased with grant funds. After the grant period expires, the grantee must complete a physical inventory of all grant funded property and must reconcile the results with the existing property records. The inventory report must be submitted and reconcile with the final financial expenditure report.

3.5.3. Equipment and Software Maintenance—All equipment purchased with grant funds may 1.1.1. All equipment purchased with grant funds may include up to three (3) years of maintenance to ensure the equipment will operate as intended during and beyond the grant period. **For multi-year grants, the cost of the actual equipment and other one-time costs will only be funded the first year of the grant and will not factor into the overall project costs in subsequent years of funding.**

3.5.4. Technology Standards

Software developed with grant funds must conform to applicable industry information exchange standards including the National Information Exchange Model (NIEM) and the Electronic Case File (ECF) 4 standards. Applications that include information technology projects must also address how the projects meet applicable technology standards adopted by the Texas Department of Information Resources (DIR) and Judicial Committee on Information Technology (JCIT) as applicable. If no relevant standards are available from DIR or JCIT, then the county must meet commonly accepted technology standards such as Open Data Base Compliant (ODBC) or Transmission Control Protocol/Internet Protocol (TCP/IP) as applicable.

3.6. Contracting Requirements

3.6.1. Professional and Contractual Services—Any contract or agreement entered into by a grantee that obligates grant funds from TIDC must be in writing and consistent with Texas contract law. Grantees must establish a contract administration system to ensure that contract deliverables are provided as specified in the contract. Grantees must regularly and consistently document the results of their contract monitoring reviews and must maintain the files and results of all contract monitoring reviews in accordance with the record retention requirements described in this section of the RFA. A grantee's failure to monitor its contracts may result in disallowed costs.

3.6.2. Commission Review—Contracts with third parties for core services in funded programs must be provided to TIDC and approved prior to execution.

3.6.3. Contract Performance Monitoring—Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor's performance does not meet the operational or performance terms of the contract. In the case of contracts for public defender offices and managed assigned counsel programs, these provisions must include a review of utilization and activity, reporting of financial data to evaluate the contractor's performance within the budget required by statute for such programs. TIDC staff must review each contract at least once every two years and notify the grantee if it is not sufficient (See TAC § 173.311).

3.6.4. Limit on Equipment for Third Party Contracting of Legal Services—Counties that contract with third parties to provide direct client indigent defense services may have included one-time purchase of equipment in the grant application. Counties may not include in the contract with the third party the full costs of the equipment line item into future funding years.

4. Standard Grant Conditions

- 4.1.** The authorized official for the grantee accepts the grant award.
- 4.2.** The authorized official, financial officer, and program director, referred to below as grant officials, must comply with the terms of the grant as written in the Request for Applications issued in February 2024, including the rules and documents adopted by reference in the Commission's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.
- 4.3.** The grant officials understand that a violation of any term of the grant may result in the Commission placing a temporary hold on grant funds, permanently de-obligating all or part of the grant funds, requiring reimbursement for funds already spent, or barring the organization from receiving future grants.
- 4.4.** Disbursement of funds is always subject to the availability of funds.
- 4.5.** The judges hearing criminal and juvenile matters must amend the Indigent Defense Plan for their respective courts to include the program funded under this award as necessary and submit it to the Commission by November 1, 2024.
- 4.6.** The Commissioners Court must adopt a public defender plan of operation or proposal that addresses the elements enumerated in Article 26.044 (c-1), Code of Criminal Procedure. The judges must submit a copy of the public defender plan of operation or proposal approved by the applicable commissioners court as part of each indigent defense plan applicable to cases in which the public defender's office will provide representation, as required by Section 79.036(a)(2), Government Code.

- 4.7. The grant officials agree to follow the grant terms contained in the "Grant Terms and Conditions" contained in Attachment A which includes the final grant application.
- 4.8. Any indigent defense plan documents submitted to the Commission must continue to meet all grant eligibility requirements.

5. GrantTerms and Conditions

- 5.1. In addition to the program requirements stated in the Request for Applications (RFA), these specific program requirements apply to this program.
- 5.2. The County will directly operate the [county program] as defined in Article 26.044 of the Texas Code of Criminal Procedure to provide indigent defense services to [number of counties] counties, including [all participating counties named] Participating counties will execute interlocal agreements with [name of Host County] County reflecting the scope of services and each participating county's contribution to the cost of the program not covered by this grant.
- 5.3. The grant for FY2025 is eligible for 74.44% reimbursement of eligible expenses due to delayed start in FY24. This program is eligible for sustainability funding in subsequent years at 2/3 reimbursement of eligible expenses.
- 5.4. The County must provide to TIDC copies of all interlocal agreements with other counties participating in the regional public defender program.
- 5.5. The County must develop and maintain a Regional Public Defender Oversight Board in accordance with Texas Code of Criminal Procedure Article 26.045 to oversee the operation of this regional program and that incorporates stakeholders from the expansion counties funded under this grant. The County must submit a draft policy detailing how the members are selected and the duties and procedures of the board to TIDC for feedback and approval prior to finalization. The Oversight Board must meet at least quarterly. The program's Oversight Board is responsible for recommending to the Commissioners Court the selection of the Chief Public Defender. The Chief Public Defender will be responsible for the implementation of this program and will hire staff sufficient to operate the department. Staffing with attorneys and support personnel must be supported by sufficient caseloads.
- 5.6. The County must provide to TIDC a Leadership Selection Plan for review and approval prior to posting the Chief Defender position. See "Texas Chief Defender Sample Hiring Rubric" and "Sample Chief Public Defender Job Description," available at <http://www.tidc.texas.gov/improvement/system-building/>.
- 5.7. The County must provide to TIDC the minimum job requirements and a full job description of the staff positions specified under this project for approval before positions are publicly posted.
- 5.8. A Public Defender Office Case Representation Policies and Procedures Manual must be developed and provided to the Commission with the second quarterly progress report. The Public Defender Office should consider relevant professional standards of representation such as the Texas State Bar Performance Guidelines for Non-Capital Criminal Defense Representation when developing the manual. Any revised versions of the Policies and Procedures Manual must be submitted with regular quarterly progress reports.

- 5.9.** The County must develop a written policy that includes caseload standards for the public defender office as required in Texas Code of Criminal Procedure Articles 26.044 and that is consistent with research-based weighted caseload guidelines published by TIDC. The caseload policy must require the Chief Public Defender to review caseloads at least quarterly. The Chief Public Defender must notify TIDC and the program's Oversight Board in writing if caseloads exceed the adopted standards.
- 5.10.** This grant requires quarterly progress reports to provide information on the operation of the program. The TIDC grant manager will create an online progress report to document the work performed in this program. The County may request modifications to the report. See the Timeline for Reporting and Fund Distribution at the end of this document for dates.
- 5.11.** In addition to quarterly progress reports, the County must submit quarterly staffing reports detailing hire dates, separation dates, vacancies, and actual salaries each month for each position funded under the grant.
- 5.12.** Requests to revise the scope, target, or staffing of the project, or substantively alter project activities require advance written approval from TIDC. Budget adjustments consisting of reallocations of funds among or within budget categories in excess of \$10,000 or ten percent of the original approved budget, whichever is less, are considered budget adjustments and are allowable only with prior approval of the executive director of TIDC. All grant modifications must be submitted in writing and signed by the Authorized Official as designated in the TIDC Improvement Grant Program Commissioners Court Resolution.
- 5.13.** The Public Defender's Office must record attorney and support staff work time in a manner that allows for accurate completion of the Indigent Defense Expenditure Report and Public Defender Addendum. Records must contain sufficient detail to allocate time and salary across categories of offenses (capital, non-capital felony, misdemeanor, juvenile, felony appeals, misdemeanor appeals, and juvenile appeals) and to document the number of cases disposed by attorney for each court.
- 5.14.** This award covers one year of operation. The County must submit a brief continuing grant application and Commissioners Court Resolution as described in the Improvement Grant Request for Applications for each subsequent year of fund
- 5.15.** Contracts with third parties for indigent defense services under this grant must be provided to TIDC and approved prior to execution.
- 5.16.** Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor's performance does not meet the operational or performance terms of the contract.

The example is based on the 2024 RFA.
Scan the QR code to see the current
RFA and other information about
Improvement Grants.



Appendix F. Standards, Statutes, and Administrative Rules

Standards

12. [TIDC/TAMU Guidelines for Indigent Defense Caseloads](#) published by the Texas Indigent Defense Commission pursuant to [House Bill 1318, Section 8, 83rd Texas Legislature](#).

“This Texas study – the first ever mandated by a state legislature – . . . instructed the Texas Indigent Defense Commission (TIDC) to ‘conduct and publish a study for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that...allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation.’” The study, conducted by the Public Policy Research Institute at Texas A&M University determined that for the delivery of reasonably effective representation attorneys should carry an annual full-time equivalent caseload of no more than the following:

236 Class B Misdemeanors
216 Class A Misdemeanors
174 State Jail Felonies
144 Third Degree Felonies
105 Second Degree Felonies
77 First Degree Felonies

13. [TIDC/TAMU Juvenile Addendum: Guidelines for Indigent Defense Caseloads](#)

Juvenile caseloads, according to the study conducted by the Public Policy Research Institute at Texas A&M University determined that for the delivery of reasonably effective representation attorneys should carry an annual full-time equivalent caseload of no more than the following:

Without Investigator Support
210 CINS/misdemeanors,
108 non-determinate sentence/non-certification felonies, or
30 determinate sentence/certification felonies

With Investigator Support
230 CINS/misdemeanors,
127 non-determinate sentence/non-certification felonies, or
36 determinate sentence/certification felonies.

14. [Updated Performance Guidelines in Criminal Cases: Continuing Progress for Texas Criminal Justice, State Bar of Texas Board of Directors \(2022\)](#).
15. [Performance Guidelines for Juvenile Representation in Delinquency Proceedings, State Bar of Texas Board of Directors \(2017\)](#)

Texas Administrative Code

Title 1 Administration

Part 8 Texas Judicial Council

Chapter 173 Indigent Defense Grants

Subchapter A General Funding Program Provisions

§173.101 Applicability

a. The Texas Legislature authorized the Texas Indigent Defense Commission (Commission) to direct the Comptroller to distribute Fair Defense Account funds and other appropriated funds, including grants, to counties and other eligible entities enumerated in section 79.037, Government Code, to provide indigent defense services. It further authorized the Commission to monitor grants and enforce compliance with grant terms. Subchapters A - D of this chapter apply to all indigent defense grants and other funds awarded to counties or other eligible entities by the Commission. Subchapter A of this chapter covers the general provisions for funding. Subchapter B of this chapter addresses funding types, eligibility, and general provisions of grant funding. Subchapter C of this chapter sets out the rules related to administering grants. Subchapter D of this chapter specifies rules regarding fiscal and program monitoring and audits. A commission-funded grantee must comply with the provisions of Subchapters A - D of this chapter in effect on the date the grant is awarded by the Commission, unless a subsequent effective date is specified by the Commission in an original grant award or a grant adjustment. Grantees must comply with all applicable state and federal statutes, rules, regulations, and guidelines. In instances where both federal and state requirements apply to a grantee, the more restrictive requirement applies.

b. Only counties in Texas and other eligible entities enumerated in section 79.037, Government Code, are eligible to receive grants or other funds from the Commission.

c. The Commission may distribute grants in accordance with its policies and based on official submissions and reports provided by grantees. These funds must be used to support or improve indigent defense systems in Texas counties and are subject to all applicable conditions contained in this chapter.

Rule §173.102 Definitions

The following words and terms, when used in this chapter, will have the following meanings, unless otherwise indicated:

(1) "Applicant" is a county or other eligible entity that has submitted a grant application, grant renewal documentation, or other request for funding from the Commission.

(2) "Application" is any formal request for funding submitted to the Commission.

(3) "Program income" means gross income earned by the grantee that is directly generated by a supported activity of the grant or earned as a result of the grant award during the period of performance. Program income includes, but is not limited to, fees for services performed.

(4) "Crime" means

- (A) a misdemeanor punishable by confinement; or
- (B) a felony.

(5) "Defendant" means a person accused of a crime or a juvenile offense.

(6) "Improvement Grant" means discretionary funding awarded on a competitive basis to implement or expand new programs or processes in Texas counties designed to improve the quality of indigent defense services, promote and assist counties' compliance with the requirements of state law relating to indigent defense, or build the knowledge base regarding indigent defense through research, program evaluation, or pilot projects.

(7) "Extraordinary Disbursement Grant" means discretionary 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.

(8) "Fair Defense Account" is an account in the general revenue fund that may be appropriated to the Commission for the purpose of implementing the Texas Fair Defense Act.

(9) "Fiscal Monitor" is an employee of the Commission who monitors counties' fiscal processes and records to ensure that financial data reported to the Commission is accurate and that grant funds are spent appropriately in accordance with the Texas Fair Defense Act, the Texas Grant Management Standards promulgated by the Comptroller, and other applicable rules and standards.

(10) "Formula Grant" means funding awarded to counties through a formula approved by the Commission.

(11) "Grant" is a funding award made by the Commission to a Texas county or other eligible entity.

(12) "Grantee" means a county or other eligible entity that is the recipient of a grant or other funds from the Commission.

(13) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

- (A) a misdemeanor punishable by confinement; or
- (B) a felony.

(14) "Special condition" means a prerequisite placed on a grant because of a need for information, clarification, or submission of an outstanding requirement of the grant that may result in a hold being placed on the Commission-funded portion of a grant project.

(15) "Sustainability Grant" means a type of Improvement Grant that is discretionary funding awarded to assist counties in maintaining regional public defender programs.

(16) "Technical Support Grant" means a type of Improvement Grant awarded for special projects to improve the quality of indigent defense services through research, program evaluation, or pilot projects that raise the knowledge base about indigent defense, and may establish processes that can be generalized to similar situations in other counties.

(17) "Texas Indigent Defense Commission" (Commission) is the governmental entity established and governed by §79.002 of the Texas Government Code.

(18) "TxGMS" means the Texas Grant Management Standards promulgated by the Office of the Comptroller.

Rule §173.103 Process for Submitting Applications for Grants and Other Funds

(a) The Commission shall publish notice of availability of grants and related policies on its website.

(b) Grant applications. The Commission will provide notice to each county judge of the availability of indigent defense grants. Applicants applying pursuant to a Request for Applications (RFA) must submit their applications according to the requirements provided in the RFA. The RFA will provide the following:

- (1) information regarding deadlines for the submission of applications;
- (2) the maximum and minimum amounts of funding available for a grant, if applicable;
- (3) the starting and ending dates for grants;
- (4) information regarding how applicants may access applications;
- (5) information regarding where and how applicants must submit applications;
- (6) submission and program requirements; and
- (7) the priorities for funding as established by the Commission.

Rule §173.104 Grant Resolutions

(a) Each grant application from a county must include a resolution from the county commissioners' court that contains the following:

- (1) authorization for the submission of the application to the Commission;
- (2) provision giving the authorized official the power to apply for, accept, decline, modify, or cancel the grant; and
- (3) written assurance that, in the event of loss or misuse of grant funds, the governing body will return all funds as required by the Commission.

(b) Each grant application from an eligible entity that is not a local government or state agency must submit a resolution adopted by the entity's governing board that contains the following:

- (1) authorization for the submission of the application to the Commission;
- (2) provision giving the authorized official the power to apply for, accept, decline, modify, or cancel the grant;
- (3) designation of the financial officer for the grant, who may not be the same person as the authorized official; and
- (4) written assurance that, in the event of loss or misuse of grant funds, the governing body will return all funds as required by the Commission.

Rule §173.105 Selection Process

(a) The Commission or its designees will review all applications and shall award grants from the Fair Defense Account or other funds appropriated by the Legislature.

(b) Upon reviewing an application, staff may require an applicant to submit, within a specified time, additional information to complete the review the application or to clarify or justify the application. Neither a request for additional information nor the issuance of a preliminary review report means that the Commission will fund an application.

(c) The Commission will inform applicants in writing or by electronic means of decisions through either a Statement of Grant Award or a notification of denial.

(d) If the Commission determines that an applicant has failed to submit the necessary information or has failed to comply with any Commission rule or other relevant statute, rule, or requirement, the Commission may hold a grantee's funds until the grantee has satisfied the requirements of a special condition imposed by the Commission. The Commission may reject the application and deny the grant for failure to satisfy the requirements.

Rule §173.106 Grant Funding Decisions

(a) The Commission or its designees will make decisions on applications for funding through the use of objective tools and comparative analysis. The Commission or its designees will first determine whether the applicant is eligible for funds in accordance with §173.101 of this chapter (relating to Applicability) and §173.201 of this chapter (relating to Eligibility).

(b) All funding decisions rest completely within the discretionary authority of the Commission or its designees. The receipt of an application for funding does not obligate the Commission to award funding, and the Commission may make grant awards that partially fund budget items or programmatic elements in grant applications.

(c) Making a grant award based on an application does not obligate the Commission to give any subsequent applications priority consideration or to obligate the Commission to make any additional, supplemental, continuing, or other award.

(d) Commission decisions regarding funding are subject to the availability of funds.

Rule §173.107 Improvement Grant Acceptance

The Statement of Grant Award constitutes obligation of funds for use by the grantee in execution of the program or project covered by the award. Each applicant must accept or reject an improvement grant award within 30 days of the date upon which the Commission issues a Statement of Grant Award. The executive director of the Commission or his designee may alter this deadline upon request from the applicant. The authorized official designated under §173.301 of this chapter (relating to Grant Officials) must formally accept the grant in writing before the grantee may receive any improvement grant funds. Funds shall not be disbursed until acceptance of the grant by the grantee's authorized official.

Rule §173.108 Adoptions by Reference

(a) Grantees must comply with all applicable state statutes, rules, regulations, and guidelines.

(b) The Commission adopts by reference the rules, documents, and forms listed below that relate to the administration of grants:

- (1) Texas Grant Management Standards (TxGMS) adopted pursuant to the Uniform Grant and Contract Management Act, Chapter 783, Texas Government Code.
- (2) The Commission forms, including the statement of grant award, grant adjustment notice, grantee's progress report, financial expenditure report, and property inventory report.

Rule §173.109 Use of the Internet

The Commission may require submission of applications for grants, progress reports, financial reports, and other information via the internet. Completion and submission of a progress report or financial report via the internet meets the relevant requirements contained within this chapter for submitting reports in writing.

Subchapter B Eligibility and Funding Requirements

Rule §173.201 Eligibility

(a) The Commission may award grants to counties and other eligible entities enumerated in section 79.037, Government Code, that have complied with standards developed by the Commission and that have demonstrated commitment to compliance with the requirements of state law relating to indigent defense. Grants to non-county eligible entities will only be awarded for the purpose of supporting or improving indigent defense services in Texas counties.

(b) A county may not reduce the total amount of funds expended for indigent defense services in the county because of funds provided by the Commission.

(c) Entities eligible to apply for and receive grant funding from the Commission enumerated in section 79.037, Government Code that are not state agencies or local governments must provide the following items to the Commission in order to have a grant application considered for funding:

- (1) The entity's articles of incorporation and bylaws;
- (2) The list of officers and members of the entity's board of directors;
- (3) Documentation of the organization's recognized nonprofit status, as applicable, including determination letters from the United States Internal Revenue Service; and
- (4) Most recent single audit report.

(d) Entities eligible to apply for and receive grant funding from the Commission enumerated in section 79.037, Government Code that are not local governments must agree to follow the Uniform Assurances and Standard Financial Management Conditions and grant rules as detailed in TxGMS, unless exceptions are approved in writing by the Commission.

Rule §173.202 Use of Funds

Grants provided under this chapter may be used by counties for:

- (1) Attorney fees for indigent defendants accused of crimes or juvenile offenses;
- (2) Expenses for licensed investigators, experts, forensic specialists, or mental health experts working for the defense under derivative attorney-client privilege to assist in the criminal defense of indigent defendants;
- (3) Other direct litigation costs related to the criminal defense of indigent defendants; and
- (4) Other approved expenses allowed by the Request for Applications necessary for the operation of a funded program.

Rule §173.203 Expenditure Categories

(a) Allowable expenditure categories and any necessary definitions will be provided to the applicant as part of the application process.

(b) Expenditures may be allocated to the grant in accordance with the Texas Grant Management standards.

Rule §173.204 Program Income

(a) Rules governing the use of program income are included in the provisions of the TxGMS-adopted by reference in §173.108 of this chapter (relating to Adoptions by Reference).

(b) Grantees must use program income to supplement program costs or reduce program costs. Program income may only be used for allowable program costs. Grantees may not carry forward program income from one grant year to the next.

d. Improvement grant reimbursements will be calculated based on net program expenditures after any program income has been applied.

Rule §173.205 Equipment

(a) Decisions by the Commission or its designees regarding requests to purchase equipment using Commission funds will be made based on the availability of funds, whether the grantee has demonstrated that the requested equipment is necessary and essential to the successful operation of the funded program, and whether the equipment is reasonable in cost.

(b) For grantees that receive a multi-year grant, the Commission will only fund equipment and other one-time start-up costs during the first year unless permission is granted in writing. Otherwise, equipment and other one-time costs will not factor in to the overall project costs after the first year of the grant.

(c) The Commission requires each grantee to maintain an inventory report of all equipment purchased with Commission funds. This report must comport with the final financial expenditure report. At least once each year during the award period, each grantee must complete a physical inventory of all property purchased with Commission funds and the grantee must reconcile the results with the purchased property records. For single-year awards, the inventory and reconciliation must be made at the end of the award period and submitted with the final report.

(d) Equipment purchased with Commission funds must be labeled and handled in accordance with the grantee's property management policies and procedures.

(e) Unless otherwise provided, equipment purchased is the property of the grantee after the end of the award period or termination of the operation of the funded program, whichever occurs last.

Subchapter C: Administering Grants

§173.301 Grant Officials

(a) Each grant must have the following designated to serve as grant officials:

(1) Financial officer. For grants to counties, this person must be the county auditor or county treasurer if the county does not have a county auditor. The Financial Officer should have knowledge of and access to the entity's financial records and processes. For grants to other eligible entities, the financial officer must be designated by the applicant in the grant resolution provided pursuant to §173.104 of this chapter (relating to Grant Resolutions).

(2) Authorized official. This person must be authorized by the county commissioners court or the board of directors of the eligible entity to apply for, accept, decline, modify, or cancel the grant for the applicant. A county judge or a designee authorized by the governing body in its

resolution may serve as the authorized official. For grants to non-county eligible entities, the authorized official will be designated by the applicant and authorized by the applicant's governing body to bind the organization to third-party contracts.

(b) The Commission may require an applicant to designate a program director. This person must be the officer or employee responsible for program operation and who will serve as the point-of-contact regarding the program's day-to-day operations.

(c) The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official.

(d) A grantee shall notify the Commission within 20 calendar days of any change in the:

- (1) Designated project director, financial officer, or authorized official; or
- (2) Mailing address, physical address, email address, fax number, or telephone number of each grant official.

§173.302 Obligating Funds

The grantee may not obligate grant funds before the beginning or after the end of the grant period specified in an original grant award or a subsequent grant adjustment.

§173.303 Retention of Records

(a) Grantees must maintain all financial records, supporting documents, statistical records, and all other records pertinent to the award for at least three years following the closure of the most recent audit report or submission of the final expenditure report. Records retention is required for the purposes of state examination and audit. Grantees may retain records in an electronic format. All records are subject to audit or monitoring during the entire retention period.

(b) Grantees must retain records for equipment, non-expendable personal property, and real property for a period of three years from the date of the item's disposition, replacement, or transfer.

(c) If any litigation, claim, or audit is started before the expiration of the three-year records retention period, the grantee must retain the records under review until the resolution of all litigation, claims, or audit findings.

§173.304 Expenditure Reports

(a) Recipients of grants must submit program expenditure reports to the Commission in addition to the annual expenditure report required for all counties under Texas Government Code §79.036(e).

(b) The Commission will provide the appropriate forms and instructions for expenditure reports and deadlines for their submission. The financial officer shall be responsible for submitting the expenditure reports.

(c) Grantees must ensure that actual expenditures are comprehensively documented. Documentation may include, but is not limited to, ledgers, purchase orders, travel records, time sheets, earnings statements, bank statements, credit card statements, other payroll documentation, invoices, receipts, contracts, mileage records or maps, and other documentation

that verifies the expenditure amount, allowability, and appropriateness to the funded program. Expenditure documentation must be provided to the Commission upon request.

§173.305 Provision of Funds

(a) After a grant has been awarded, and if there are no deficiencies or special conditions that result in withholding of grant funds according to §173.307 or §173.401, the Commission may disburse funds to the grantee. Funds will be disbursed to the grantee quarterly unless specific permission for an alternative disbursement schedule is granted in writing from the executive director.

(b) Disbursement of funds is always subject to the availability of funds.

(c) Improvement grant funds will be paid on a reimbursement basis only after the expenditure report has been submitted. Funds must be expended, not merely obligated, before being included in the grant program expenditure report. Requests for exceptions to this section must be in writing and signed by the authorized official and may be approved by the executive director for good cause.

§173.306 Improvement Grant Adjustments

(a) The authorized official must sign all requests for grant adjustments.

(b) Budget Adjustments. Grant adjustments consisting of reallocations of funds among or within budget categories in excess of \$10,000 or ten percent of the original grant award, whichever is less, are considered budget adjustments, and are allowable only with prior approval of the executive director of the Commission. Grantees must notify the Commission in writing of reallocations of funds among or within budget categories below this threshold. If a reallocation of funds among or within budget categories results in the cumulative amount of budget changes within the same fiscal year reaching \$10,000 or 10% of the original grant award, whichever is less, the adjustment is allowable only with the prior approval of the executive director of the Commission.

(c) Non-Budget Grant Adjustments. The following rules apply to other grant adjustments:

(1) Requests to revise the scope, target, or staffing of the project, or substantively alter project activities require advance written approval from the Commission.

(2) The grantee shall notify the Commission in writing of any change in the designated program director, financial officer, or authorized official within ten days following the change.

§173.307 Remedies for Noncompliance

(a) If a grantee fails to comply with any term or condition of a grant, , rules, or any applicable statutes, the Commission may take one or more of the following actions:

(1) disallow all or part of the cost of the activity or action that is not in compliance and seek a return of the funds;

(2) impose administrative sanctions, other than fines, on the grantee;

(3) temporarily withhold grant payments pending correction of the deficiency by the grantee;

(4) withhold future grant payments from the program or grantee; or

(5) terminate the grant in whole or in part.

(b) The Commission shall provide reasonable notice prior to imposing a remedy under subsection (a) of this section. If a grantee disputes the finding, the authorized official may request that one or more

representatives of the grantee appear before the Commission. If the Commission receives such a request, it will consider the grantee's presentation at the Commission's next scheduled meeting. The administrative determination rendered by the Commission is final.

§173.308 Term of Grant

- (a) The term of a grant shall be specified in the Statement of Grant Award or other funding document.
- (b) If a grantee wishes to terminate a grant in whole or in part before the end of the award period, the grantee must notify the Commission in writing. The Commission or its designee will arrange with the grantee an early termination of the award, which may include transfer or disposal of property and return of unused funds.
- (c) The Commission may terminate any grant, in whole or in part, when:
 - (1) the grantee and the executive director of the Commission agree to do so;
 - (2) the grantee fails to comply with any term, condition, statute, rule, regulation, or guideline;
 - (3) indigent defense funds are no longer available;
 - (4) operational conditions exist that make it unlikely that grant or program objectives will be accomplished; or
 - (5) The grantee has acted in bad faith.
- (d) A grantee may submit a written request for an extension of the funding period. The Commission must receive requests for funding extensions at least 30 days prior to the end of the funding period. The executive director of the Commission may approve extensions of the funding period for up to six months. Requests to extend the funding period beyond six months of the original term must be approved by the Commission.

§173.309 Violations of Laws

If the grantee has a reasonable belief that a criminal violation may have occurred in connection with Fair Defense Account funds, including the misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with the requirements of a grant, the grantee must immediately notify the Commission in writing of the suspected violation or irregularity. The grantee may also notify the local prosecutor's office of any possible criminal violations. Grantees whose programs or personnel become involved in any litigation arising from the grant, whether civil or criminal, must immediately notify the Commission and forward a copy of any demand notices, lawsuits, or indictments to the Commission.

§173.310 Progress Reports for Improvement Grants

Each grantee must submit reports regarding performance and progress towards goals and objectives in accordance with the instructions provided by the Commission or its designee. To remain eligible for funding, the grantee must be able to show the scope of services provided and the impact and quality of those services.

§173.311 Contract Monitoring

Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor's performance does

not meet the operational or performance terms of the contract. In the case of contracts for public defender offices and managed assigned counsel programs, these provisions must include a review of utilization and activity, reporting of financial data to evaluate the contractor's performance within the budget required by statute for such programs. Commission staff must review each contract at least once every two years and notify the grantee if it is not sufficient.

Subchapter D Monitoring and Audits

§173.401 Fiscal Monitoring

(a) The Commission or its designees will monitor the activities of grantees as necessary to ensure that Commission grant funds are used for authorized purposes in compliance with laws, regulations, and the provisions of grant agreements.

(b) The monitoring program may consist of formal audits, monitoring reviews, and technical assistance. The Commission or its designees may implement monitoring through on-site review at the grantee location or through a desk review based on grantee reports. In addition, the Commission or its designees may require grantees to submit relevant information to the Commission to support any monitoring review. The Commission may contract with an outside provider to conduct the monitoring.

(c) Grantees must make available to the Commission or its designees all requested records relevant to a monitoring review. The Commission or its designees may make unannounced monitoring visits at any time. Failure to provide adequate documentation upon request may result in disallowed costs or other remedies for noncompliance as detailed under §173.307 of this chapter (relating to Remedies for Noncompliance).

(d) After a monitoring review, the fiscal monitor shall issue a report to the authorized official and financial officer as soon as is practicable, but no later than 90 days following the final submission of requested county financial data, unless a documented exception is provided by the executive director. The report shall contain each finding of noncompliance.

(e) Within 60 days of the date the report is issued, the authorized official or financial officer shall respond in writing to each finding of non-compliance and shall describe the proposed corrective action to be taken by the grantee. The grantee may request the executive director to grant an extension of up to 60 days.

(f) The corrective action plan will include the:

- (1) titles of the persons responsible for implementing the corrective action plan;
- (2) corrective action to be taken; and
- (3) anticipated completion date.

(g) If the grantee believes corrective action is not required for a noted deficiency, the response will include an explanation, specific reasons, and supporting documentation.

(h) The Commission or its designees will approve the corrective action plan and may require modifications prior to approval. The grantee's replies and the approved corrective action plan, if any, will become part of the final report.

(i) The grantee will correct deficiencies identified in the final report within the time frame specified in the corrective action plan.

(j) The fiscal monitor shall conduct an additional on-site visit or remote follow-up review when the fiscal monitor determines that the report includes significant noncompliance findings. The follow-up visit or desk review shall occur within 12 months following receipt of a county's response to the report. The fiscal monitor shall review a grantee's implementation of corrective actions and shall report to the grantee and Commission any remaining issues not corrected. Within 30 days of the date the follow-up report is issued by the fiscal monitor, the authorized director or financial officer shall respond in writing to each finding of noncompliance, and shall describe the proposed corrective action to be taken by the grantee. The grantee may request the director to grant an extension of up to 30 days.

(k) If a grantee fails to respond to a monitoring report or follow-up report within the required time, then a certified letter will be sent to the authorized official, financial officer, county judge, local administrative district court judge, local administrative statutory county court judge, and chair of the juvenile board notifying them that formula grant payments will be automatically withheld if no response to the report is received by the Commission within 10 days of receipt of the letter. The Commission may also authorize withholding of improvement grant funds. If funds are withheld under this section, then the funds will not be reinstated until the Commission or the Grants and Reporting Committee approves the release of the funds.

(l) If a grantee fails to correct any noncompliance findings, the Commission may impose a remedy under §173.307 of this title.

§173.402 Audits Not Performed by the Texas Indigent Defense Commission

(a) Grantees must submit to the Commission copies of the results of any single audit conducted in accordance with the single audit standards in the Texas Grant Management Standards. Grantees must ensure that single audit results, including the grantee's response and corrective action plan, if applicable, are submitted to the Commission within 30 days after grantee receipt of the audit results or nine months after the end of the audit period, whichever is earlier.

(b) All other audits performed by auditors independent of the Commission must be maintained at the grantee's administrative offices pursuant to §173.303 of this chapter (relating to Retention of Records) and be made available upon request by the Commission or its representatives. Grantees must notify the Commission of any audit results that may adversely impact the Commission grant funds.

(c) Nothing in this section should be construed so as to require a special or program-specific audit of a grantee's Indigent Defense grant program.

Chapter 174 Indigent Defense Policies and Standards

Subchapter A Minimum Continuing Legal Education Requirements

Rule §174.1 Appointment in Criminal Cases

An Attorney who meets the requirements of this rule may be appointed to represent an indigent person arrested for or charged with a crime, if the attorney is otherwise eligible under the procedures

developed under Article 26.04, Code of Criminal Procedure. Crime has the meaning assigned by §173.102(3). An attorney may be appointed under this rule only if an attorney:

(1) Completes a minimum of six hours of continuing legal education pertaining to criminal law during each 12-month reporting period. The judges of criminal courts of the county shall set the 12-month reporting period applicable to the jurisdiction. Continuing legal education may include activities accredited under Section 4, Article XII, State Bar Rules, self-study, teaching at an accredited continuing legal education activity, attendance at a law school class or legal research-based writing. The judges may require attorneys to complete more than the minimum number of hours of continuing legal education in criminal law in the procedures developed under Article 26.04, Code of Criminal Procedure; or

(2) Is currently certified in criminal law by the Texas Board of Legal Specialization.

Rule §174.2 Appointment in Juvenile Cases

An attorney who meets the requirements of this rule may be appointed to represent an indigent juvenile detained for or accused of engaging in delinquent conduct or conduct indicating a need for supervision, if the attorney is otherwise eligible under the plan developed under Section 51.101, Family Code. An attorney may be appointed under this rule only if an attorney:

(1) Completes a minimum of six hours of continuing legal education pertaining to juvenile law during each 12-month reporting period. The juvenile board shall set the 12-month reporting period applicable to the jurisdiction. Continuing legal education may include activities accredited under Section 4, Article XII, State Bar Rules, self-study, teaching at an accredited continuing legal education activity, attendance at a law school class or legal research-based writing. A juvenile board may require an attorney to complete more than the minimum number of hours of continuing legal education in juvenile law in the plan developed under Section 51.101, Family Code; or

(2) Is currently certified in juvenile law by the Texas Board of Legal Specialization.

Rule §174.3 Reporting Period

(a) Continuing legal education activity completed within a one-year period immediately preceding an attorney's initial reporting period may be used to meet the educational requirement for the initial year.

(b) Continuing legal education activity completed during any reporting period in excess of the minimum six-hour requirement for such period may be applied to the following period's requirement. The carryover provision applies to one year only.

Rule §174.4 Emergency Appointment

If no attorney who meets the continuing legal education or board certification requirements contained in this subchapter is available by the time an attorney must be appointed in the case, another attorney may be appointed. The person making an appointment under this section shall give priority to an attorney with experience in criminal or juvenile law, respectively.

Subchapter B Contract Defender Program Requirements

This subchapter is not included in this resource because is not applicable to public defender programs. It is hyperlinked for user convenience.

Subchapter C Policy Monitoring Requirements

Rule §174.26 Subchapter Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Executive Director--The executive director of the Commission.
- (2) Authorized Official--The county judge or other designee authorized to apply for, accept, decline, modify, or cancel a grant designated under §173.301 of this title (relating to Grant Officials).
- (3) Period of review--The fiscal year preceding the date of the monitoring visit, other agreed time period, or other reasonable time period as determined by the Commission.
- (4) Policies and Standards Committee--A committee of the Commission charged with developing policies and standards related to improving indigent defense services.
- (5) Policy Monitor--The employee of the Commission who monitors the effectiveness of a county's indigent defense policies, standards, and procedures.
- (6) Risk Assessment--A tool to rank each county's potential risk of not being in compliance with indigent defense laws.
- (7) Commission— Commission means the Texas Indigent Defense Commission.
- (8) Full review--An on-site policy monitoring review covering all the core requirements in §174.28(c) of this chapter (relating to relating to On-Site Monitoring Process).
- (9) Limited scope review--An on-site policy monitoring review covering fewer than all of the core requirements in §174.28(c) of this chapter.
- (10) Drop-in visit--An informal, on-site visit to assess indigent defense processes of a county.

Rule §174.27 Risk Assessment

(a) A risk assessment of each county shall be conducted by the policy monitoring team each fiscal year as the primary means of determining which counties will be selected for on-site policy monitoring. On-site monitoring visits to counties shall then be apportioned by administrative judicial region, county size, risk assessment scores, past visits, and other documented factors. The risk assessment shall use a variety of factors related to the provision of indigent defense services, including but not limited to the following:

- (1) Investigation and expert witness expenses;
- (2) Reimbursements for attorney fees;
- (3) Per capita indigent defense expenses;
- (4) Felony, misdemeanor, and juvenile attorney appointment rates;
- (5) County population;
- (6) Complaints about a county received by the Commission;
- (7) Receipt of a TIDC improvement grant;

- (8) Requests for counsel during magistrate warnings under Article 15.17, Code of Criminal Procedure; and
- (9) Appellate cases.

(b) Counties may receive monitoring visits as a result of factors outside of the risk assessment, including findings from a previous visit, a complaint, media reports, or a request from an elected state or local official. If Commission staff make a drop-in visit, fiscal monitoring review, or grant program review and determine that violations of the Fair Defense Act or Commission rules may be present in a county, the monitor may conduct a monitoring visit of the county's procedures.

Rule §174.28 On-Site Monitoring Process

(a) Purpose. The monitoring process promotes local compliance with the requirements of the Fair Defense Act and Commission rules and provides technical assistance to improve processes where needed.

(b) Monitoring Process. The policy monitor examines the local indigent defense plans and local procedures and processes to determine if the jurisdiction meets the statutory requirements and rules adopted by the Commission. The policy monitor also attempts to randomly select samples of actual cases from the period of review by using a 15% confidence interval for a population at a 95% confidence level.

(c) Core Requirements. On-site policy monitoring focuses on the six core requirements of the Fair Defense Act and related rules. Policy monitoring may also include a review of statutorily required reports to the Office of Court Administration and Commission. This rule establishes the process for evaluating policy compliance with a requirement and sets benchmarks for determining whether a county is in substantial policy compliance with the requirement. For each of these elements, the policy monitor shall review the local indigent defense plans and determine if the plans are in compliance with each element.

Rule §174.51 Indigent Defense Plan Requirements

The countywide procedures adopted under Art. 26.04(a), Code of Criminal Procedure, must provide a method to allow defendants to obtain the necessary forms for requesting appointment of counsel and to submit completed forms for requesting appointment of counsel at any time after the initiation of adversary judicial proceedings.

Texas Code of Criminal Procedure

§26.04 Procedures for Appointing Counsel

(a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 15.18, 26.05, and 26.052 and must provide for the priority appointment of a public defender's office as described by Subsection (f). A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a

finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

(b) Procedures adopted under Subsection (a) shall:

(1) authorize only the judges of the county courts, statutory county courts, and district courts trying criminal cases in the county, or the judges' designee, to appoint counsel for indigent defendants in the county;

(2) apply to each appointment of counsel made by a judge or the judges' designee in the county;

(3) ensure that each indigent defendant in the county who is charged with a misdemeanor punishable by confinement or with a felony and who appears in court without counsel has an opportunity to confer with appointed counsel before the commencement of judicial proceedings;

(4) require appointments for defendants in capital cases in which the death penalty is sought to comply with any applicable requirements under Articles 11.071 and 26.052;

(5) ensure that each attorney appointed from a public appointment list to represent an indigent defendant perform the attorney's duty owed to the defendant in accordance with the adopted procedures, the requirements of this code, and applicable rules of ethics; and

(6) ensure that appointments are allocated among qualified attorneys in a manner that is fair, neutral, and nondiscriminatory.

(c) Whenever a court or the courts' designee authorized under Subsection (b) to appoint counsel for indigent defendants in the county determines for purposes of a criminal proceeding that a defendant charged with or appealing a conviction of a felony or a misdemeanor punishable by confinement is indigent or that the interests of justice require representation of a defendant in the proceeding, the court or the courts' designee shall appoint one or more practicing attorneys to represent the defendant in accordance with this subsection and the procedures adopted under Subsection (a). If the court or the courts' designee determines that the defendant does not speak and understand the English language or that the defendant is deaf, the court or the courts' designee shall make an effort to appoint an attorney who is capable of communicating in a language understood by the defendant.

(f) In a county with a public defender's office, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

(1) the court makes a finding of good cause for appointing other counsel, provided that in a capital murder case, the court makes a finding of good cause on the record for appointing that counsel;

(2) the appointment would be contrary to the office's written plan under Article [26.044](#);

(3) the office is prohibited from accepting the appointment under Article [26.044\(j\)](#); or

(4) a managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

(j) An attorney appointed under this article shall:

(1) make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed;

(2) represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record;

(3) with respect to a defendant not represented by other counsel, before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty:

(A) advise the defendant of the defendant's right to file a motion for new trial and a notice of appeal;

(B) if the defendant wishes to pursue either or both remedies described by Paragraph (A), assist the defendant in requesting the prompt appointment of replacement counsel; and

(C) if replacement counsel is not appointed promptly and the defendant wishes to pursue an appeal, file a timely notice of appeal; and

(4) not later than October 15 of each year and on a form prescribed by the Texas Indigent Defense Commission, submit to the county information, for the preceding fiscal year, that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in the county under this article and Title 3, Family Code.

(k) A court may replace an attorney who violates Subsection (j)(1) with other counsel. A majority of the judges of the county courts and statutory county courts or the district courts, as appropriate, trying criminal cases in the county may remove from consideration for appointment an attorney who intentionally or repeatedly violates Subsection (j)(1).

(l) Procedures adopted under Subsection (a) must include procedures and financial standards for determining whether a defendant is indigent. The procedures and standards shall apply to each defendant in the county equally, regardless of whether the defendant is in custody or has been released on bail.

§26.044. PUBLIC DEFENDER'S OFFICE.

(a) In this chapter:

(1) "Governmental entity" includes a county, a group of counties, a department of a county, an administrative judicial region created by Section [74.042](#), Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter [791](#), Government Code.

(2) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter [B](#), Chapter [78](#), Government Code.

(3) "Oversight board" means an oversight board established in accordance with Article [26.045](#).

(4) "Public defender's office" means an entity that:

(A) is either:

(i) a governmental entity; or

(ii) a nonprofit corporation operating under a written agreement with a governmental entity, other than an individual judge or court; and

(B) uses public funds to provide legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section [79.001](#), Government Code.

(b) The commissioners court of any county, on written approval of a judge of a county court, statutory county court, or district court trying criminal cases or cases under Title 3, Family Code, in the county, may create a department of the county or by contract may designate a nonprofit corporation to serve as a public defender's office. The commissioners courts of two or more counties may enter into a written agreement to jointly create or designate and jointly fund a regional public defender's office. In creating or designating a public defender's office under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify, if creating or designating a regional public defender's office:

(1) the duties of the public defender's office;

(2) the types of cases to which the public defender's office may be appointed under Article [26.04\(f\)](#) and the courts in which an attorney employed by the public defender's office may be required to appear;

(3) if the public defender's office is a nonprofit corporation, the term during which the contract designating the public defender's office is effective and how that contract may be renewed on expiration of the term; and

(4) if an oversight board is established under Article [26.045](#) for the public defender's office, the powers and duties that have been delegated to the oversight board.

(b-1) The applicable commissioners court or commissioners courts shall require a written plan from a governmental entity serving as a public defender's office.

(c) Before contracting with a nonprofit corporation to serve as a public defender's office under Subsection (b), the commissioners court or commissioners courts shall solicit proposals for the public defender's office.

(c-1) A written plan under Subsection (b-1) or a proposal under Subsection (c) must include:

(1) a budget for the public defender's office, including salaries;

(2) a description of each personnel position, including the chief public defender position

(3) the maximum allowable caseloads for each attorney employed by the public defender's office;

(4) provisions for personnel training;

(5) a description of anticipated overhead costs for the public defender's office;

(6) policies regarding the use of licensed investigators and expert witnesses by the public defender's office; and

(7) a policy to ensure that the chief public defender and other attorneys employed by the public defender's office do not provide representation to a defendant if doing so would create a conflict of interest that has not been waived by the client.

(d) After considering each proposal for the public defender's office submitted by a nonprofit corporation under Subsection (c), the commissioners court or commissioners courts shall select a proposal that reasonably demonstrates that the public defender's office will provide adequate quality representation for indigent defendants in the county or counties.

(e) The total cost of the proposal under Subsection (c) may not be the sole consideration in selecting a proposal.

(f) A public defender's office must be directed by a chief public defender who:

- (1) is a member of the State Bar of Texas;
- (2) has practiced law for at least three years; and
- (3) has substantial experience in the practice of criminal law.

(g) A public defender's office is entitled to receive funds for personnel costs and expenses incurred in operating as a public defender's office in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the public defender's office serves more than one county.

(h) A public defender's office may employ attorneys, licensed investigators, and other personnel necessary to perform the duties of the public defender's office as specified by the commissioners court or commissioners courts under Subsection (b)(1).

(i) Except as authorized by this article, the chief public defender and other attorneys employed by a public defender's office may not:

- (1) engage in the private practice of criminal law; or
- (2) accept anything of value not authorized by this article for services rendered under this article.

(j) A public defender's office may not accept an appointment under Article [26.04](#)(f) if:

- (1) a conflict of interest exists that has not been waived by the client;
- (2) the public defender's office has insufficient resources to provide adequate representation for the defendant;
- (3) the public defender's office is incapable of providing representation for the defendant in accordance with the rules of professional conduct;
- (4) the acceptance of the appointment would violate the maximum allowable caseloads established at the public defender's office; or
- (5) the public defender's office shows other good cause for not accepting the appointment.

(j-1) On refusing an appointment under Subsection (j), a chief public defender shall file with the court a written statement that identifies any reason for refusing the appointment. The court shall determine whether the chief public defender has demonstrated adequate good cause for refusing the appointment and shall include the statement with the papers in the case.

(j-2) A chief public defender may not be terminated, removed, or sanctioned for refusing in good faith to accept an appointment under Subsection (j).

(k) The judge may remove from a case a person who violates a provision of Subsection (i).

(l) A public defender's office may investigate the financial condition of any person the public defender's office is appointed to represent. The public defender's office shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this article.

(m) If it is necessary that an attorney who is not employed by a public defender's office be appointed, the attorney is entitled to the compensation provided by Article [26.05](#) of this code.

(n) An attorney employed by a public defender's office may be appointed with respect to an application for a writ of habeas corpus filed under Article [11.071](#) only if:

- (1) an attorney employed by the office of capital writs is not appointed in the case; and
- (2) the attorney employed by the public defender's office is on the list of competent counsel maintained under Section [78.056](#), Government Code.

§ Art. 26.045. PUBLIC DEFENDER OVERSIGHT BOARD.

(a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for a public defender's office created or designated in accordance with this chapter.

(b) The commissioners court or courts that establish an oversight board under this article shall appoint members of the board. Members may include one or more of the following:

- (1) an attorney;
- (2) the judge of a trial court in this state;
- (3) a county commissioner;
- (4) a county judge;
- (5) a community representative; and
- (6) a former client or a family member of a former client of the public defender's office for which the oversight board was established under this article.

(c) The commissioners court or courts may delegate to the board any power or duty of the commissioners court to provide oversight of the office under Article [26.044](#), including:

- (1) recommending selection and removal of a chief public defender;
- (2) setting policy for the office; and
- (3) developing a budget proposal for the office.

(d) An oversight board established under this article may not gain access to privileged or confidential information.

Texas Government Code

§79.034. Policies And Standards.

(a) The commission shall develop policies and standards for providing:

- (1) legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings; and
- (2) family protection services to indigent parents and children.

(a-1) The policies and standards may include:

1. performance standards for counsel appointed to represent indigent individuals;
- (2) qualification standards under which attorneys may qualify for appointment to represent:
 - (A) indigent defendants, including:
 - (i) qualifications commensurate with the seriousness of the nature of the proceeding;
 - (ii) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;
 - (iii) successful completion of relevant continuing legal education programs approved by the council; and
 - (iv) testing and certification standards; or
 - (B) indigent parents and children in suits filed by the department, including:
 - (i) qualifications appropriate for representing an indigent parent;
 - (ii) qualifications appropriate for representing a child;
 - (iii) successful completion of relevant continuing legal education programs required by law or the State Bar of Texas and approved by the council; and
 - (iv) testing and certification standards;
- (3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent individuals;
- (4) standards for determining whether a person accused of a crime or juvenile offense or named in a suit filed by the department is indigent;
- (5) policies and standards governing the organization and operation of an assigned counsel program;
- (6) policies and standards governing the organization and operation of a public defender's office consistent with recognized national policies and standards;
- (7) policies and standards governing the organization and operation of an office of child representation or office of parent representation consistent with recognized national policies and standards;
- (8) standards for providing indigent defense services or family protection services under a contract defender program consistent with recognized national policies and standards;
- (9) standards governing the reasonable compensation of counsel appointed to represent indigent individuals;
- (10) standards governing the availability and reasonable compensation of providers of indigent defense support services or family protection services for counsel appointed to represent indigent individuals;

(11) standards governing the operation of a legal clinic or program that provides legal services to indigent individuals and is sponsored by a law school approved by the supreme court;

(12) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code;

(13) policies and standards governing the appointment of attorneys to represent indigent parents and children in proceedings with the department under Title 5, Family Code;

(14) policies and standards governing the organization and operation of a managed assigned counsel program consistent with nationally recognized policies and standards; and

(15) other policies and standards for providing indigent defense services and family protection services as determined by the commission to be appropriate.

(b) The commission shall submit its proposed policies and standards developed under Subsection (a) to the board for adoption. The board shall adopt the proposed policies and standards as appropriate.

(c) Any qualification standards adopted by the board under Subsection (b) that relate to the appointment of counsel in a death penalty case must be consistent with the standards specified under Article 26.052(d), Code of Criminal Procedure. An attorney who is identified by the commission as not satisfying performance or qualification standards adopted by the board under Subsection (b) may not accept an appointment in a capital case.

Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS.

(a) The commission shall develop a plan that establishes statewide requirements for counties relating to reporting indigent defense information and family protection services information. The plan must include provisions designed to reduce redundant reporting by counties and provisions that take into consideration the costs to counties of implementing the plan statewide. The commission shall use the information reported by a county to monitor the effectiveness of the county's indigent defense and family protection services policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense and family protection services. The commission may revise the plan as necessary to improve monitoring of indigent defense and family protection services policies, standards, and procedures in this state.

(b) The commission shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing any information submitted to the commission by a county under Section [79.036](#); and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent individuals;

(B) current indigent defense practices and family protection services practices in the state as compared to state and national standards;

(C) efforts made by the commission to improve indigent defense practices and family protection services practices in the state;

- (D) recommendations made by the commission for improving indigent defense practices and family protection services practices in the state; and
- (E) the findings of a report submitted to the commission under Section [79.039](#).

(c) The commission shall annually submit to the Legislative Budget Board and council and shall publish in written and electronic form a detailed report of all expenditures made under this subchapter, including distributions under Section [79.037](#).

(d) The commission may issue other reports relating to indigent defense and family protection services as determined to be appropriate by the commission.

§79.036. INDIGENT DEFENSE INFORMATION.

(a) Not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission:

- (1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;
2. any plan or proposal submitted to the commissioners court under Article [26.044](#), Code of Criminal Procedure;
3. any plan of operation submitted to the commissioners court under Article [26.047](#), Code of Criminal Procedure;
4. any contract for indigent defense services required under rules adopted by the commission relating to a contract defender program;
5. any revisions to rules, forms, plans, proposals, or contracts previously submitted under this section; or
6. verification that rules, forms, plans, proposals, or contracts previously submitted under this section still remain in effect.

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article [26.04](#), Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information provided to the county by those attorneys under Article [26.04\(j\)\(4\)](#), Code of Criminal Procedure.

(b) Except as provided by Subsection (c):

- (1) the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the district courts trying felony cases in the county; and
- (2) the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to

all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms, the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the person designated by the judge, shall perform the action required by Subsection (a).

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

- (1) in each district, county, statutory county, and appellate court;
- (2) in cases for which a private attorney is appointed for an indigent defendant;
- (3) in cases for which a public defender is appointed for an indigent defendant;
- (4) in cases for which counsel is appointed for an indigent juvenile under Section [51.10\(f\)](#), Family Code; and
- (5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Sec. 79.037. TECHNICAL SUPPORT; GRANTS.

(a) The commission shall:

(1) provide technical support to:

- (A) assist counties in improving their systems for providing indigent defense services, including indigent defense support services;
- (B) assist counties in improving their systems for providing family protection services; and
- (C) promote compliance by counties with the requirements of state law relating to indigent defense and family protection services;

(2) to assist a county in providing or improving the provision of indigent defense services and family protection services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

- (A) the county;
- (B) a law school's legal clinic or program that provides indigent defense services in the county;
- (C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county;

(D) an entity described by Section [791.013](#) that provides to a county administrative services under an interlocal contract entered into for the purpose of providing or improving the provision of indigent defense services or family protection services in the county;

(E) a nonprofit corporation that provides indigent defense services, indigent defense support services, or family protection services in the county; and

(F) an office of child representation or office of parent representation created under Subchapter [G](#), Chapter [107](#), Family Code; and

(3) monitor each entity that receives a grant under Subdivision (2) and enforce compliance with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the entity.

(b) The commission shall determine for each county the entity or entities that are eligible to receive funds for the provision of or improvement in the provision of indigent defense services or family protection services under Subsection (a)(2). The determination must be made based on the entity's:

(1) compliance with standards adopted by the board; and

(2) demonstrated commitment to compliance with the requirements of state law relating to indigent defense or family protection services.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services or family protection services in the county because of funds provided by the commission under this section.

(e) The commission may distribute funds under Subsection (a)(2) to a regional public defender's office formed under Article [26.044](#), Code of Criminal Procedure, if:

(1) the regional public defender's office serves two or more counties;

(2) each county that enters an agreement to create or designate and to jointly fund the regional public defender's office satisfies the commission that the county will timely provide funds to the office for the duration of the grant for at least half of the office's operational costs;

(3) each participating county by local rule adopts and submits to the commission guidelines under Article [26.04](#)(f), Code of Criminal Procedure, detailing the types of cases to be assigned to the office; and

(4) each participating county and the regional public defender's office agree in writing to a method that the commission determines to be appropriate under Subsection (f) to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

(f) The commission shall select, by rule or under a contract with a regional public defender's office, a method for the payment of costs under Subsection (e)(4), which may include any combination of the following:

(1) allowing an office to establish and maintain a reserve of funds sufficient to cover anticipated costs, in an amount determined appropriate by the commission;

- (2) guaranteeing all or part of the costs to be paid; or
- (3) establishing a schedule of fees for the payment of costs in the manner provided by Article [26.05](#), Code of Criminal Procedure.

(g) Any change to a schedule of fees established under Subsection (f)(3) must first be approved by the commission.

(h) A regional public defender's office shall collect each participating county's portion of the operational costs as that portion is provided by the county to the office.

Appendix G. TIDC GRANT RULES AND REQUIREMENTS

Overview

The Texas Indigent Defense Commission (TIDC) provides financial and technical support to counties to develop and sustain quality, cost-effective indigent defense systems. TIDC's Improvement Grant Program provides program-specific funding awarded on a competitive basis. The Commission may provide Improvement Grants for any program that improves indigent defense services. The period for funding and program operation begins on October 1 and ends September 30.

1. Information Included in the Application

1. Executive Summary

The Executive Summary is the abstract of the project. It describes, in one hundred (100) words or less, what the program will do and the broad goals that will be met if the program is funded.

2. Problem Statement

The Problem Statement describes the issue or problem the proposed program is intended to improve or correct. Information about the affected populations, social and economic costs of the issue, and resources currently available are included here along with any formal or informal data related to the problem.

3. Objectives

Program targets and goals that address the problem identified above are included in this section. The application provides guidance for drafting objectives.

- Objectives must be directly related to the program in this application and the funds requested.
- Objectives must be time and date specific and measurable.
- Objectives are the basis for the evaluation and progress reports.
- Objectives must be consistent with the Problem Statement.

4. Activities

This section describes specific program activities that will be conducted to support the objectives. Instructions, required elements, start-up tasks, staffing needs, and justification for the effectiveness or efficiency of the proposed activity are detailed. The application instructs the applicant to:

- Write this section so that outsiders know exactly what the applicant plans to do.
- Include detailed instructions of step-by-step procedures that will take place to implement the program, and the resources needed to complete each task.
- Incorporate the required elements of the program.
- List start-up tasks and the ongoing program activities that staff will perform to implement the program.
- Provide justification related to effectiveness and/or economy of the activity proposed. Include supporting research on this activity if available.
- Describe whether existing staff and/or contractors will perform tasks, reports, etc. or if new staff positions will be created to implement the program. If the program will be implemented through a contract, include information on the selection process.

5. Evaluation

The process that will be used to determine whether the program has met the stated objectives and the measures that will be used to demonstrate the program's impact is detailed in this section. Evaluation requirements are also included.

- Evaluation must be linked directly to the objectives and activities. The evaluation must measure both the progress made toward implementing the grant-funded activity and the effect of the program once it is in operation.
- Measure the attainment of objectives in a specific and tangible manner (e.g., "Applications of indigence and requests for appointed counsel will be accepted electronically and maintained in an online data management system").
- Measures must be quantifiable (e.g., count the number of requests for counsel received).
- Measures must be time-specific (e.g., requests for counsel will be counted from February to January and reported monthly).
- Measures must identify the way they will be recorded for future review (e.g., a case management system report). Data collection cooperation agreements with county offices and departments are strongly recommended so that the applicant can demonstrate it will be able to meet data collection and evaluation goals.
- The measure of success is determined by the goals and objectives of the proposed activity. Describe how milestones, accomplishments, and timelines will be tracked and recorded.
- Evaluations must demonstrate how the program impacts other county processes when applicable.
- Evaluations of program success should be considered from both fiscal and programmatic perspectives.

6. Future Funding

A description of how the proposed activity fits into the county's long-term budget planning after the grant ends is found in this section. Note: this requirement is not applicable to Rural Regional Public Defender Sustainability Grants.

7. Budget Narrative and Budget Form

A proposed budget is a required submission. It must clearly state the costs to implement and sustain the operation of the program. The budget narrative should justify all expenses and must be consistent with program activities and objectives. The proposed budget must include:

- All costs necessary to implement the proposed activity.
- Provide a narrative to detail and justify all budgeted expenses. This narrative must correspond to the activities section.
- Indicate in the budget and narrative the non-reoccurring start-up costs for multi-year grants.
- Indirect costs are allowable but the application will not be considered competitive if above 10%. Preferred applications will include little or no indirect cost requirements.
- The equipment line requires a list of equipment to be purchased. All equipment must be purchased in the first year of the grant unless permission is granted from TIDC in writing. Otherwise, the equipment costs will not factor into the total project cost after the first year of funding.

- Budget line items must include detailed basis of cost explanations in the budget narrative.

8. Commissioners Court Resolutions

Counties must submit a resolution authorizing submission of the program application. The resolution must be adopted by the County Commissioners Court, signed by the applicant's authorized official, and uploaded to the online grant application. Nonprofit organization applicants should submit a resolution adopted by their governing board authorizing the application and additional documentation of county support and coordination.

9. Judicial Support Letters

The judiciary is responsible for each county's Indigent Defense Plan. Applications must include letter(s) of support from the judges who will participate in or implement the program. Letters must describe the level and type of commitment the judges will provide to the program.

10. Public Defender Office Requirements

Applicants must provide an Oversight Board plan describing the membership positions, board structure, and board responsibilities. Applicants must also provide a Leadership Selection Plan that outlines the recruitment and selection of the program's chief public defender.

11. Grant Officials

1. Grant Officials – Each grant application must designate the following:

- Program Director. This person must be the officer or employee responsible for program operation or monitoring and will serve as the point-of-contact regarding the program's day-to-day operations.
- Financial Officer. For counties, this person must be the county auditor or county treasurer if the applicant does not have a county auditor. Other applicants must designate the chief financial officer.
- Authorized Official. This person must be authorized by the commissioners court or governing board to apply for, accept, decline, modify, or cancel the grant for the applicant. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official.
- The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official

2. Fiscal Application Requirements

2.1 Funding Conditions

TIDC may temporarily suspend grant disbursements if the following required reports and documentation are not submitted.

2.1a Indigent Defense Expenditure Report

All counties are statutorily required (Texas Government Code Sec. 79.036 (e)) to submit an Indigent Defense Expenditure Report each year on November 1 in the form and manner prescribed by the Commission. Counties that do not complete the Indigent Defense Expense Report on or before November 1 of each year may have payments temporarily suspended by Commission staff until the report is submitted and reconciled by staff.

2.1b Indigent Defense Plan Requirements

The Local Administrative District Judges, the Local Statutory County Court Judges (or County Judge as applicable) and the Chairman of the Juvenile Board for each county must submit a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure (Countywide Plans) to the Commission as required in Government Code §79.036. The Countywide Plans submitted must be in compliance with applicable statutes and rules and must meet the minimum requirements for each plan section as outlined in the Biennial Indigent Defense Countywide Plan Instructions. Plans are required to be submitted by November 1 every other year. Grant payments may be withheld until plans are submitted or meet the minimum requirements for each plan section set by Commission.

2.1c Compliance with Monitoring Reports

A county must respond within the required time, take corrective action for findings of non-compliance, and satisfactorily address all recommendations in a Commission fiscal or policy monitoring report.

2.1d Court Activity Reports to the Office of Court Administration:

County and district clerks must be in compliance with monthly court activity reporting requirements promulgated by the Texas Judicial Council.

2.2 Multi-Year Funding

Funding is available for multi-year programs (four years), or rural regional public defender sustainability grants (ongoing) to encourage innovative long-term programs to improve the delivery of indigent services. Continued awards for multi-year programs can be renewed up to program limits, but TIDC only awards funding for the current fiscal year.

2.3 Rural Regional Public Defender Sustainability Grants

Counties with a population less than 100,000 participating with other counties in a multi-county (3+) regional public defender office are eligible for 80% reimbursement in the initial year of funding. In subsequent years of funding, participating counties must provide a cash match of 1/3rd of the total approved budget. A participating county's individual share of the cash match is determined by the interlocal agreement between participating counties. The participating counties collectively contribute the required cash match amount, typically calculated based on caseload or population.

2.4 Multi-Year Improvement Grants

Counties must provide a cash match from county or other funds of 20% of total project costs in the first funding year, 40% the second funding year, 60% the third funding year, and 80% the fourth funding year. An applicant's use of matching funds must comply with the same statutes, rules, regulations, and guidelines applicable to the use of the Commission funded portion of a grant project.

2.5 Formula Grant Applications

Counties that receive Improvement Grants are encouraged to continue to apply for the Formula Grant. The county will submit its Indigent Defense Expenditure Report (IDER) on or before November 1 of each year. If the implementation of the grant program results in a reduction of the county's indigent defense expenditures below the baseline, formula grant funds may be withheld by TIDC.

2.5a Formulas for Calculating the Cash Match

- Total Project Cost multiplied by percent of match required = Total Match Required
- Total Project Cost minus Total Match Required = Total Commission Grant Request

2.6 Grant Disbursement

Grant funds are disbursed on a reimbursement basis according to the funded percentage in the award. The County must submit expenditure reports to obtain reimbursement of expended funds based on actual expenditures. The reimbursements will be proportional to the county's required match. See [Expenditure Categories and Reporting Deadlines](#).

2.7 Delayed Start Policies

TIDC's Period for Funding and Program Operation is October 1 to September 30. Counties may begin to make program expenditures on October 1; however, multi-year grant programs occasionally require counties to postpone expenditures for several months. The hiring of the first program position typically marks the first month of program operation for multi-year grants.

To allow a grantee to take advantage of the typical first-year 80% cash match, the funding amounts will be calculated from the first month of program operation. If approved for continued funding, the grantee will enter the next grant period with the previous year's reimbursement rate for a temporary period that is equal to the duration of the first year's delay. The remainder of the renewed grant period will be reimbursed at the match rate for the corresponding grant year.

This process will carry forward each year until the program is complete. Grant documentation will reflect the grantee's funding schedule and any adjustments that may be required because of the delayed start of program operation.

2.8 Continued Multi-Year Improvement Grant Renewal

TIDC generally awards funding only for the current grant year. Future funding will be based on the 1) submission of a brief application to continue funding in subsequent years up to eligible limits, 2) submission of required progress reports, 3) a demonstration of successful progress made in implementing the program, 4) a new Commissioners Court or governing board resolution, and 5) future availability of funds. Requests for scope changes, amendments or budget adjustments may be submitted with Continued Multi-Year applications.

2.9 Equipment Costs

Equipment and other one-time costs will only be funded in the first year of the grant unless permission is granted by TIDC in writing. The Commission's portion of the grant and the cash match after the first year of funding will be calculated based on the total project costs less the equipment expenses from the first year.

2.10 Fiscal Policies

- Program Income – Grantees must apply any program income to expenses prior to submitting reimbursement claims under the grant.
- Supplanting Prohibited – a county may not reduce the amount of funds provided for indigent defense services because of a grant award.

- Dual Use – If an applicant applies for an indigent defense program that may be tied to a general government process, the applicant must provide documentation and rationale to establish a basis of costs to determine the portion of a program/project that is attributable to indigent defense.
- Fund Use – Grant funds must be used to pay for the direct and/or administrative costs of providing and/or improving indigent defense services.

2.11 Governing Statutes, Rules, and Standards

All Commission grant programs are governed by one or more of the following statutes, rules, and standards. These documents are available in the Appendix.

- Texas Government Code: [Chapter 79](#)
- Texas Administrative Code: Title 1 [Chapter 173](#) and [Chapter 174](#)
- [Texas Grant Management Standards](#) (TxGMS) as promulgated by the Texas Comptroller of Public Accounts.

3. [Program Fiscal Requirements](#)

3.1 Costs

3.1a Allowable Costs –Grants may be used for:

- Attorney fees for indigent defendants accused of crimes or juvenile offenses;
- Expenses for licensed investigators, experts, forensic specialists, or mental health experts related to the criminal defense of indigent defendants; and
- Other approved expenses allowed by this grant program or necessary for the operation of a funded program.

3.1b Unallowable Costs

TIDC has adopted the [Texas Grant Management Standards](#) (TxGMS) to determine unallowable costs. Specifically, in accordance with TxGMS and the grant rules the following conditions apply:

- General government costs are unallowable;
- Costs of law enforcement, prosecution, supervision, and incarceration are unallowable;
- Replacing existing county funding with grant funds is unallowable; and
- Funding positions that previously existed or currently exist in the county is unallowable.

See [TxGMS](#) for a full list of unallowable costs.

3.2 Failure to Begin

Failure to begin operating the program before the end of the grant award period may constitute a failure to meet performance measures unless authorized by TIDC.

3.3 Grantee Reporting Requirements

3.3.1 Maintain Official Contact Information

All counties must maintain correct grant official contact information on TIDC's [Grant, Reporting, and Plan Management Website](#) (<http://tidc.tamu.edu>). Counties must advise TIDC of changes in the authorized official, program director, financial officer, local administrative district judge, local statutory county judge and county judge by updating contact information. TIDC staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.

3.3.2 Reports

Online fiscal and program reports are required each quarter. All grants will require at least one follow-up report outside of the grant period. A reporting schedule will be provided in the Statement of Grant Award (SGA) if TIDC authorizes a grant award.

3.4 Program Records Requirements

3.4.1 Data Collection and Agreements—

Grantees must collect data to support the evaluation of the program's impact and compliance with the Fair Defense Act. This may require data collection agreements from county offices or departments to provide information to the program director on a regular basis.

3.4.2 Records Retention

Grantees must maintain records related to the funded activity for at least three years after the end of the grant period. Records may be stored electronically.

3.4.3 Monitoring and Auditing

Records must be made available to TIDC or its designees upon request. (See Texas Administrative Code § 173.401 for more details.)

3.5 Program Equipment and Purchasing Requirements

3.5.1 Use DIR State Contract

Counties must purchase all technology, equipment and software from the Department of Information Resources (DIR) State Contract. A county may submit a written request for exception that demonstrates why the DIR contract cannot be used for this project or is not cost-effective. Entities not eligible to purchase under the DIR contract must adopt and follow procurement policies and document cost comparisons prior to making equipment purchases.

3.5.2 Inventory

Equipment purchased with grant funds by a county is the property of the county. Non-county grantees must include in their proposal a plan for equipment purchased with grant funds when the program ends. TIDC requires each grantee to maintain an inventory record of all equipment purchased with grant funds. After the grant period expires, the grantee must complete a physical inventory of all grant funded property and must reconcile the results with the existing property records. The inventory report must be submitted and reconcile with the final financial expenditure report.

3.5.3 Equipment and Software Maintenance

All equipment purchased with grant funds may include up to three (3) years of maintenance to ensure the equipment will operate as intended during and beyond the grant period. For multi-year grants, the cost of the actual equipment and other one-time costs will only be funded the first year of the grant and will not factor into the overall project costs in subsequent years of funding.

3.5.4 Technology Standards

Software developed with grant funds must conform to applicable industry information exchange standards including the National Information Exchange Model (NIEM) and the

Electronic Case File (ECF) 4 standards. Applications that include information technology projects must also address how the projects meet applicable technology standards adopted by the Texas Department of Information Resources (DIR) and Judicial Committee on Information Technology (JCIT) as applicable. If no relevant standards are available from DIR or JCIT, then the county must meet commonly accepted technology standards such as Open Data Base Compliant (ODBC) or Transmission Control Protocol/Internet Protocol (TCP/IP) as applicable.

3.6 Contracting Requirements

3.6.1 Professional and Contractual Services

Any contract or agreement entered into by a grantee that obligates grant funds from TIDC must be in writing and consistent with Texas contract law. Grantees must establish a contract administration system to ensure that contract deliverables are provided as specified in the contract. Grantees must regularly and consistently document the results of their contract monitoring reviews and must maintain the files and results of all contract monitoring reviews in accordance with the record retention requirements described in this section of the RFA. A grantee's failure to monitor its contracts may result in disallowed costs.

3.6.2 Commission Review

Contracts with third parties for core services in funded programs must be provided to TIDC and approved prior to execution.

3.6.3 Contract Performance Monitoring

Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor's performance does not meet the operational or performance terms of the contract. In the case of contracts for public defender offices and managed assigned counsel programs, these provisions must include a review of utilization and activity, reporting of financial data to evaluate the contractor's performance within the budget required by statute for such programs. TIDC staff must review each contract at least once every two years and notify the grantee if it is not sufficient (See TAC § 173.311).

3.6.4 Limit on Equipment for Third Party Contracting of Legal Services

Counties that contract with third parties to provide direct client indigent defense services may have included one-time purchase of equipment in the grant application. Counties may not include in the contract with the third party the full costs of the equipment line item into future funding years.

4. SGA Standard Grant Conditions

- a. The authorized official for the grantee accepts the grant award.
- b. The authorized official, financial officer, and program director, referred to below as grant officials, must comply with the terms of the grant as written in the Request for Applications issued in February 2024, including the rules and documents adopted by reference in the Commission's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.

- c. The grant officials understand that a violation of any term of the grant may result in the Commission placing a temporary hold on grant funds, permanently de-obligating all or part of the grant funds, requiring reimbursement for funds already spent, or barring the organization from receiving future grants.
- d. Disbursement of funds is always subject to the availability of funds.
- e. The grant officials agree to follow the grant terms contained in the "Grant Terms and Conditions" contained in Attachment A which includes the final grant application.
- f. Any indigent defense plan documents submitted to the Commission must continue to meet all grant eligibility requirements.
- g. The judges hearing criminal and juvenile matters must amend the Indigent Defense Plan for their respective courts to include the program funded under this award as necessary and submit it to the Commission by November 1, 2024.

5. SGA Special Grant Terms and Conditions

- a. In addition to the program requirements stated in the Request for Applications (RFA), these specific program requirements apply to this program.
- b. The County will directly operate the [county program] as defined in Article 26.044 of the Texas Code of Criminal Procedure to provide indigent defense services to [number of counties] counties, including [all participating counties named] Participating counties will execute interlocal agreements with [name of Host County] County reflecting the scope of services and each participating county's contribution to the cost of the program not covered by this grant.
- c. The grant for FY2025 is eligible for reimbursement of eligible expenses due to delayed start in FY24. This program is eligible for sustainability funding in subsequent years at 2/3 reimbursement of eligible expenses.
- d. TIDC has adjusted the program budget for the FY25 to 80% of the total proposed budget based on TIDC's estimate that launching the office and hiring all staff will take considerable time. If the program is able to staff up more quickly than anticipated, the County may request that TIDC increase the approved budget up to the full operational budget as necessary to match actual expenditures as the program launches. TIDC anticipates awards for subsequent years to be based on the full proposed budget in the grant application.
- e. The County must develop and maintain a Regional Public Defender Oversight Board in accordance with Texas Code of Criminal Procedure Article 26.045 to oversee the operation of this regional program and that incorporates stakeholders from the expansion counties funded under this grant. The County must submit a draft policy detailing how the members are selected and the duties and procedures of the board to TIDC for feedback and approval prior to finalization. The Oversight Board must meet at least quarterly. The program's Oversight Board is responsible for recommending to the Commissioners Court the selection of the Chief Public Defender. The Chief Public Defender will be responsible for the implementation of this program and will hire staff sufficient to operate the department. Staffing with attorneys and support personnel must be supported by sufficient caseloads.

- f. The program's Oversight Board is responsible for recommending to the Commissioners Comi the selection of the Chief Public Defender. The Chief Public Defender will be responsible for the implementation of this program and will hire staff sufficient to operate the department. Staffing with attorneys and support personnel must be supported by sufficient caseloads.
- g. The County must provide to TIDC a Leadership Selection Plan for review and approval prior to posting the Chief Defender position. See Sample Chief Public Defender Job Description, Texas Chief Defender Sample Hiring Rubric, and Sample Interview Questions.
- h. The County must provide to TIDC the minimum job requirements and a full job description of the staff positions specified under this project for approval before positions are publicly posted.
- i. The Commissioners Court must adopt a public defender plan of operation or proposal that addresses the elements enumerated in Article 26.044 (c-1), Code of Criminal Procedure.
- j.
- k. The judges must submit a copy of the public defender plan of operation or proposal approved by the applicable commissioners court as part of each indigent defense plan applicable to cases in which the public defender's office will provide representation, as required by Section 79.036(a)(2), Government Code.
- l. A Public Defender Office Case Representation Policies and Procedures Manual must be developed and provided to the Commission with the second quarterly progress report. The Public Defender Office should consider relevant professional standards of representation such as the Texas State Bar Performance Guidelines for Non-Capital Criminal Defense Representation when developing the manual. Any revised versions of the Policies and Procedures Manual must be submitted with regular quarterly progress reports.
- m. The County must develop a written policy that includes caseload standards for the public defender office as required in Texas Code of Criminal Procedure Articles 26.044 and that is consistent with research-based weighted caseload guidelines published by TIDC. The caseload policy must require the Chief Public Defender to review caseloads at least quarterly. The Chief Public Defender must notify TIDC and the program's Oversight Board in writing if caseloads exceed the adopted standards.
- n. This grant requires quarterly progress reports to provide information on the operation of the program. The TIDC grant manager will create an online progress report to document the work performed in this program. The County may request modifications to the report. See the Timeline for Reporting and Fund Distribution at the end of this document for dates.
- o. In addition to quarterly progress reports, the County must submit quarterly staffing reports detailing hire dates, separation dates, vacancies, and actual salaries each month for each position funded under the grant.
- p. Grant funds are disbursed on a reimbursement basis according to the funded percentage in the award. The County must submit expenditure reports to obtain reimbursement of expended funds based on actual expenditures. The reimbursements will be proportional to the county's required match. See the Timeline for Repo1iing and Fund Distribution at the end of this document for dates.

- q. Requests to revise the scope, target, or staffing of the project, or substantively alter project activities require advance written approval from TIDC. Budget adjustments consisting of reallocations of funds among or within budget categories in excess of \$10,000 or ten percent of the original approved budget, whichever is less, are considered budget adjustments and are allowable only with prior approval of the executive director of TIDC. All grant modifications must be submitted in writing and signed by the Authorized Official as designated in the TIDC Improvement Grant Program Commissioners Court Resolution.
- r. The Public Defender's Office must record attorney and support staff work time in a manner that allows for accurate completion of the Indigent Defense Expenditure Report and Public Defender Addendum. Records must contain sufficient detail to allocate time and salary across categories of offenses (capital, non-capital felony, misdemeanor, juvenile, felony appeals, misdemeanor appeals, and juvenile appeals) and to document the number of cases disposed by attorney for each court.
- s. Contracts with third parties for indigent defense services under this grant must be provided to TIDC and approved prior to execution.
- t. Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor's performance does not meet the operational or performance terms of the contract.
- u. The County must provide to TIDC copies of all interlocal agreements with other counties participating in the regional public defender program.
- v. This award covers one year of operation. The County must submit a brief continuing grant application and Commissioners Court Resolution as described in the Improvement Grant Request for Applications for each subsequent year of funding



Appendix H. Texas Chief Public Defender Hiring Rubric

Use this tool to help evaluate chief public defender candidates. A candidate's score will help determine whom to interview and whom to hire.
When a candidate does not fit neatly into a category, use your best judgment to score the candidate.

	0 Does Not Meet	1 Approaches	2 Meets	3 Exceeds	4 Outstanding
Leadership	Has not led a legal organization as chief, first assistant, or division director.	Has led a legal organization as chief, first assistant, or division director for 1-4 years.	Has led a legal organization as chief, first assistant, or division director for 5-9 years.	Has led a legal organization as chief, first assistant, or division director for 10-14 years. May instruct other leaders.	Has led a legal organization for 15+ years, including 5+ years as chief, first assistant, or division director. Instructs other leaders.
Litigation	Has litigated criminal cases for 0-3 years or has tried 0-9 cases to verdict.	Has litigated criminal cases for 4–6 years or has tried 10-14 cases to verdict.	Has litigated criminal cases for 7-14 years or has tried 15-24 cases to verdict.	Has litigated criminal cases for 15-19 years or has tried 25-49 cases to verdict. May have taught litigation skills.	Has litigated criminal cases for 20+ years or has tried 50+ cases to verdict. Has taught litigation skills.
Public Defense	Has never worked as a public defender.	Has worked in a public defender office for 1-4 years.	Has worked in a public defender office for 5-9 years.	Has worked in a public defender office for 10-14 years. May have served in a public defender leadership, management, or supervision role.	Has worked in a public defender office for 15+ years. Has served in a public defender leadership, management, or supervision role.
Supervision	Has not served as a supervisor.	Has supervised 1-4 attorneys and staff. Has served as a supervisor for 1-3 years.	Has supervised 5-9 attorneys and staff. Has served as a supervisor for 4-7 years.	Has supervised 10+ attorneys and staff. Has served as a supervisor for 8-14 years. May have taught other supervisors.	Has supervised 10+ attorneys and staff. Has served as a supervisor for 15+ years. Has taught other supervisors.
Management and Budgeting	Has not managed daily operations for a legal organization. Has not created or overseen an organizational budget.	Has managed daily operations for a legal organization for 1-3 years. May have helped create or oversee an organizational budget.	Has managed daily operations for a legal organization for 4-6 years. Has helped create or oversee an organizational budget.	Has managed daily operations for a legal organization for 7-9 years. Has created, proposed, advocated for, or overseen organizational budgets in multiple years.	Has managed daily operations for a legal organization for 10+ years. Has created, proposed, advocated for, or overseen organizational budgets in multiple years. May have taught or written about management or budgeting.



Appendix I. TIDC EXPENDITURE CATEGORIES

EXPENDITURE CATEGORY	DESCRIPTION
Personnel – Salaries & Number of FTE's	Total salaries and number of full-time employees
Fringe Benefits	Employer share/Contribution for: ▪ FICA/Medicare ▪ Workers Comp ▪ Unemployment Insurance ▪ Retirement ▪ Health Insurance ▪ Life Insurance ▪ Disability ▪ Other benefit(s) provided as part of the employment package
Travel and Training	Travel: mileage, rental car reimbursements; flights; meals; and hotel rooms Training: Registration fees for attorney, investigator and social worker/mental health coordinator/counselor trainings and continuing education programs (in addition to related travel expenses)
Equipment	Definition: Non-reoccurring start-up costs that TIDC considers capitalized (e.g. case management system onboarding, office furniture, computers & monitors, copier/scanner/fax/printers, etc.). The host county must maintain an inventory list of all equipment. Funds must be expended in the first year of the grant unless prior written approval is obtained from TIDC. Grant funding is generally not available for equipment after the first year of funding.
Supplies & Direct Operating	Supplies: General office supplies & project supplies (other than computers and other items listed in the equipment line item) with a per-unit cost of less than \$10,000. Direct Operating Costs: Includes leases for space, rental costs, advertising costs for staff vacancies, utilities, cell phones, liability insurance, payroll services, intangible property such as software and software licenses, etc.
Contract Services	Services: Examples include licensed investigators, experts, forensic specialists, or mental health experts related to the criminal defense of indigent defendants and network support. See RFA, program application and statement of grant award for additional contract requirements.
Indirect Costs	Indirect costs are generally disfavored. If approved in advance, indirect costs are limited to administrative costs incurred by the host county for grant management & reporting tasks.

GRANT REPORTS, DEADLINES, AND REIMBURSEMENT DATES

Reporting Period	Report Type Due	Due Date	Fund Distribution Date
Q1: October - December	Grant Expenditure Report Progress Report	January 15	February 1
NOVEMBER	Update Indigent Defense Plan Submit Public Defender Office Plan	NOVEMBER 1	
Q2: January – March	Grant Expenditure Report Progress Report	April 15	May 1
Q2: January – March	Submit Office Policies & Procedures	April 15	
JANUARY	SUBMIT GRANT RENEWAL	FEBRUARY 1	
Q3: April - June	Grant Expenditure Report Progress Report	July 15	August 1
Q4: July – September	Grant Expenditure Report Progress Report	October 15	December 1

Quarterly progress reports and expenditure reports must be submitted to TIDC according to the following schedule:

NOTE: Even if no funds are expended in a particular quarter, the progress and expenditure reports must be submitted.

Prior to posting any positions, the proposed job descriptions must be submitted to TIDC via the Grant Reporting Portal at www.TIDC.TAMU.Edu. The Public Defender's Office Plan of Operation and Office Procedures Manual are due to TIDC with the second quarter report. If the Public Defender Office Plan, must also be submitted with the updated Indigent Defense Plan.

Appendix K. Draft Form Exhibit A - Interlocal Agreement Rural Regional PDO

EXHIBIT A

The following table shows the estimated share of expenses for operating the (Name of program) Regional Public Defender Office for each counties based on their relative share of indigent defense cases during the prior year.

County	% of Cases
County #1	xx.xx%
County #2	xx.xx%

Appendix L. Rural Regional PDO Interlocal Agreement - NonProfit Contractor

THE STATE OF TEXAS

COUNTIES OF COUNTY #1, COUNTY #2 AND COUNTY #3

INTERLOCAL AGREEMENT

(NAME) REGIONAL PUBLIC DEFENDER OFFICE

I Participating Counties (Parties)

1. THIS INTERLOCAL AGREEMENT is made by and between COUNTY #1 COUNTY, TEXAS (COUNTY #1), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by COUNTY #1 COUNTY Commissioners Court on the ____ day of _____, 202__;

COUNTY #2 COUNTY, TEXAS (COUNTY #2), a political subdivision of the State of Texas, acting through the County Judge pursuant to authority granted by COUNTY #2 COUNTY Commissioners Court on the ____ day of _____, 202__;

And

COUNTY #3 COUNTY, TEXAS (COUNTY #3), a political subdivision of the State of Texas, acting through the County Judge pursuant to authority granted by COUNTY #3 COUNTY Commissioners Court on the ____ day of _____, 202__.

COUNTY #1, COUNTY #2, AND COUNTY #3 may be referred to individually as a Party, or collectively as Parties or Participating Counties. This Agreement is made pursuant to Chapter 791, Government Code (Interlocal Cooperation Act) and the Fair Defense Act, as established by the 77th Legislature through the passage of the Fair Defense Act.

2. All written notices called for or required by this Agreement shall be addressed to the following addresses. In addition, each Party may designate a different address by giving the other Parties at least ten (10) days prior written notice of such change of address.

COUNTY OF COUNTY #1	COUNTY OF COUNTY #2	COUNTY OF COUNTY #3
Hon. County Judge County #1	Hon. County Judge County #2	Hon. County Judge County #3
Mailing Address County #1	Mailing Address County #2	Mailing Address County #3
City County #1, Texas Zip Code	City County #2, Texas Zip Code	City County #2, Texas Zip Code

The Parties hereby agree that the following statements are true and correct and constitute the basis upon which each has entered into this Agreement:

WHEREAS, this agreement is made under the authority granted by and pursuant to CHAPTER 791 of the Texas Government Code:

WHEREAS, This Agreement is made in accordance with and pursuant to Article 26.044(b), Texas Code of Criminal Procedure;

WHEREAS, each governing body finds that the subject of this Agreement is necessary for the benefit of the public and that each has the legal authority to perform and to provide the government function or service which is the subject of the matter of this Agreement; and

WHEREAS, the performance of this Agreement by each Party will be in the common interest of all Parties and will benefit the general public;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

II. AGREEMENT

1. (HOST COUNTY) will contract with (NAME OF NON-PROFIT CORPORATION) to operate The (NAME) Regional Public Defender Office (Initials for Regional Public Defender's Office name) on behalf of all Participating Counties. The (Initials for Regional Public Defender's Office name) is funded by a Texas Indigent Defense Commission grant to (HOST COUNTY) and by funds contributed by each Participating County. The (Initials for Regional Public Defender's Office name) will provide court-appointed counsel to (list types of cases to be handled by the Regional Public Defender's Office, i.e. adults and juveniles) who are accused of, (edit as necessary for scope of regional public defender's office: or appealing a conviction of, felonies or misdemeanors punishable by confinement), and who, upon providing proof, are not financially able to employ counsel.

The contract between (HOST COUNTY) and (NAME OF NON-PROFIT CORPORATION) is attached hereto as Exhibit B, and incorporated into this interlocal agreement as if set out in full. If (HOST COUNTY) enters into any amendments to said contract, (HOST COUNTY) will forward a copy of those amendments to the person designated to receive notices under this contract within thirty (30) days of executing such contract amendment.

2. The County Courts and District Courts (the Courts) of COUNTY #1, COUNTY #2, and COUNTY #3 shall participate in the program. The program allows the Courts of each Participating County to appoint the (Initials for Regional Public Defender's Office name) for (list the volume of cases the Regional Public Defender's Office will handle, i.e. all cases in which appointment of counsel is appropriate). The program covers (list types of cases to be handled by the Regional Public Defender's Office, i.e. adult defendants and juvenile respondents). The (Initials for Regional Public Defender's Office's name) shall not be appointed to capital murder cases. Some appointments may occur outside of this agreement due to conflicts of interest (e.g., multiple defendants in a case), other situations described in Tex. Code Crim. Proc. Art. 26.004(j), or capital cases, which are not included in this agreement. Absent such a situation, the parties agree that, consistent with filled staff attorney positions, all eligible appointments shall be directed to the (Initials for Regional Public Defender's Office name) , subject to the maximum caseload capacity of the office based on TIDC caseload guidelines.

3. During the Public Defender's Office launch and hiring legal staff, the participating counties agree to coordinate case appointments with the Chief Public Defender, or designee, so that the number of cases appointed by the participating counties to the Public Defender's Office will not either as an individual county, or the participating counties collectively, exceed the caseload capacity of the legal staff actively working in the office.
4. COUNTY #1, COUNTY #2, and COUNTY #3 hereto agree to pay the designated share of the Public Defender Office, as reflected in Exhibit A, to COUNTY #1 COUNTY, which is the administrative grantee county operating the program on behalf of all Participating Counties. The payments shall be made on an (specify frequency of county contribution payments, i.e. quarterly or annual) basis, payable each (specify date payment(s) are due). Initially, each Participating County shall pay as shown in Exhibit "A" attached hereto. The Participating Counties agree to make additional contributions, if necessary, proportionate to their current caseloads during this first year. The Participating Counties agree to fund their shares in future years proportionate to the caseload of the (Initials for Regional Public Defender's Office name) in each county once historical caseloads are available. Contributions shall be reexamined on an annual basis to be modified each year effective October 1 of that year. The caseload shall be reviewed after a full year of Public Defender Office operations have occurred and on an annual time frame covering June 1 through May 31st each year. At the end of each fiscal year, County #1 County will reconcile actual program expenditures with budgeted amounts that serve as the basis for county contributions. In the event that actual program expenditures are less than budgeted, pro-rata credit for each participating county will be calculated that may be applied toward the participant county's contribution for the next fiscal year.
5. The Commissioners Courts of COUNTY #1, COUNTY #2, and COUNTY #3 Counties each agree to collectively appoint a three (3) member Oversight Board. This board shall be responsible contract oversight, including monitoring contractor performance and overall operations and activities of the (Initials for Regional Public Defender's Office name). The board may not gain access to privileged or confidential information per Art. 25.045(d), Tex. Code of Crim. Proc.

The Oversight Board shall consist of the following seven (7) members representing a fair composition of both counties:

- One (1) member from the COUNTY #1 County Commissioners Court;
- One (1) member from the COUNTY #2 County Commissioners Court;
- One (1) member from the COUNTY #3 County Commissioners Court;

Members of the County Commissioners Courts serve for the duration of their service in their respective offices.

The Oversight Board shall be governed in accordance with the Oversight Board Plan and Policies, which is maintained in a separate document from this agreement.

6. Nothing contained in this Agreement is intended to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. It is

understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any Party as an agent of the other Party, for any purpose whatsoever.

7. The failure of any Party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that Party's right to insist upon appropriate performance or to assert any such right on any future occasion.
8. If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, the venue for such action shall lie in state courts located in COUNTY #1 COUNTY, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.
9. The provisions and conditions of this Agreement are solely for the benefit of COUNTY #1, COUNTY #2, and COUNTY #3 and are not intended to create any rights, contractual or otherwise, to any other person or entity.
10. It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligation hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; delays caused by unforeseen construction or site issues; fire or other casualty; court injunction; necessary condemnation proceedings; acts of the other Party, its affiliates/related entities and/or their contractors; any actions or inactions of third parties; or other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstances is similar to any of those enumerated or not; the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such performance shall be extended for a period of time equal or the period such party was delayed due to the event causing delay.
11. The Commissioners Court of a Participating County may opt out of this Agreement annually on October 1 of a given year by giving 90 days prior written notice to the Oversight Board and to all Commissioners Courts participating in the plan. A county opting out of this agreement shall be responsible for paying costs related to completing cases originating from the county that have already been appointed to TRGPD and that will be completed by TRGPD, pursuant to the terms of the contract with TRGPD (see Appendix B).

12. This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Parties as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. This Agreement may be executed by multiple originals, each to be submitted for approval to the Participating Counties' Commissioners Court.

SIGNED AND EXECUTED this _____ day of _____, 202__.

COUNTY OF COUNTY #1
STATE OF TEXAS

COUNTY OF COUNTY #2
STATE OF TEXAS

COUNTY OF COUNTY #3
STATE OF TEXAS

By: _____

Hon. Name County Judge
COUNTY #1 County Judge

By: _____

Hon. Name County Judge
COUNTY #2 County Judge

By: _____

Hon. Name County Judge
COUNTY #3 County Judge

Exhibit A.

Attach Table of Each Participating County's Percentage Contribution to County Portion of RPDO Budget

Exhibit B.

Attach Contract Between Host County and Non-Profit Corporation Operating Public Defender's Office

Appendix M. Rural Regional PDO Interlocal Agreement - County Department PD

THE STATE OF TEXAS

COUNTIES OF COUNTY #1, COUNTY #2 AND COUNTY #3

INTERLOCAL AGREEMENT

(NAME) REGIONAL PUBLIC DEFENDER OFFICE

I **Participating Counties (Parties)**

1. THIS INTERLOCAL AGREEMENT is made by and between COUNTY #1 COUNTY, TEXAS (COUNTY #1), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by COUNTY #1 COUNTY Commissioners Court on the ____ day of _____, 202__;

COUNTY #2 COUNTY, TEXAS (COUNTY #2), a political subdivision of the State of Texas, acting through the County Judge pursuant to authority granted by COUNTY #2 COUNTY Commissioners Court on the ____ day of _____, 202__;

And

COUNTY #3 COUNTY, TEXAS (COUNTY #3), a political subdivision of the State of Texas, acting through the County Judge pursuant to authority granted by COUNTY #3 COUNTY Commissioners Court on the ____ day of _____, 202__.

COUNTY #1, COUNTY #2, AND COUNTY #3 may be referred to individually as a Party, or collectively as Parties or Participating Counties. This Agreement is made pursuant to Chapter 791, Government Code (Interlocal Cooperation Act) and the Fair Defense Act, as established by the 77th Legislature through the passage of the Fair Defense Act.

2. All written notices called for or required by this Agreement shall be addressed to the following addresses. In addition, each Party may designate a different address by giving the other Parties at least ten (10) days prior written notice of such change of address.

COUNTY OF COUNTY #1	COUNTY OF COUNTY #2	COUNTY OF COUNTY #3
Hon. County Judge County #1	Hon. County Judge County #2	Hon. County Judge County #3
Mailing Address County #1	Mailing Address County #2	Mailing Address County #3
City County #1, Texas Zip Code	City County #2, Texas Zip Code	City County #2, Texas Zip Code

The Parties hereby agree that the following statements are true and correct and constitute the basis upon which each has entered into this Agreement:

WHEREAS, this agreement is made under the authority granted by and pursuant to CHAPTER 791 of the Texas Government Code:

WHEREAS, This Agreement is made in accordance with and pursuant to Article 26.044(b), Texas Code of Criminal Procedure;

WHEREAS, each governing body finds that the subject of this Agreement is necessary for the benefit of the public and that each has the legal authority to perform and to provide the government function or service which is the subject of the matter of this Agreement; and

WHEREAS, the performance of this Agreement by each Party will be in the common interest of all Parties and will benefit the general public;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

II. AGREEMENT

1. The (NAME) Regional Public Defender Office (Initials for Regional Public Defender's Office name) is administratively organized as a department of and subject to the policies and procedures of COUNTY #1 County on behalf of all Participating Counties. The (Initials for Regional Public Defender's Office name) is funded by a Texas Indigent Defense Commission grant and by funds contributed by each Participating County. The (Initials for Regional Public Defender's Office name) will provide court-appointed counsel to (list types of cases to be handled by the Regional Public Defender's Office, i.e. adults and juveniles) who are accused of, or appealing a conviction of, felonies or misdemeanors punishable by confinement, and who, upon providing proof, are not financially able to employ counsel.
2. The County Courts and District Courts (the Courts) of COUNTY #1, COUNTY #2, and COUNTY #3 shall participate in the program. The program allows the Courts of each Participating County to appoint the (Initials for Regional Public Defender's Office name) for (list the volume of cases the Regional Public Defender's Office will handle, i.e. all cases in which appointment of counsel is appropriate). The program covers (list types of cases to be handled by the Regional Public Defender's Office, i.e. adult defendants and juvenile respondents). The (Initials for Regional Public Defender's Office's name) shall not be appointed to capital murder cases. Some appointments may occur outside of this agreement due to conflicts of interest (e.g., multiple defendants in a case), other situations described in Tex. Code Crim. Proc. Art. 26.004(j), or capital cases, which are not included in this agreement. Absent such a situation, the parties agree that, consistent with filled staff attorney positions, all eligible appointments shall be directed to the (Initials for Regional Public Defender's Office name), subject to the maximum caseload capacity of the office based on TIDC caseload guidelines.
3. During the Public Defender's Office launch and hiring legal staff, the participating counties agree to coordinate case appointments with the Chief Public Defender, or designee, so that the number of cases appointed by the participating counties to the Public Defender's Office will not either as an individual county, or the participating counties collectively, exceed the caseload capacity of the legal staff actively working in the office.

4. COUNTY #1, COUNTY #2, and COUNTY #3 hereto agree to pay the designated share of the Public Defender Office, as reflected in Exhibit A, to COUNTY #1 COUNTY, which is the administrative grantee county operating the program on behalf of all Participating Counties. The payments shall be made on an (specify frequency of county contribution payments, i.e. quarterly or annual) basis, payable each (specify date payment(s) are due). Initially, each Participating County shall pay as shown in Exhibit "A" attached hereto. The Participating Counties agree to make additional contributions, if necessary, proportionate to their current caseloads during this first year. The Participating Counties agree to fund their shares in future years proportionate to the caseload of the (Initials for Regional Public Defender's Office name) in each county once historical caseloads are available. Contributions shall be reexamined on an annual basis to be modified each year effective October 1 of that year. The caseload shall be reviewed after a full year of Public Defender Office operations have occurred and on an annual time frame covering June 1 through May 31st each year. At the end of each fiscal year, County #1 County will reconcile actual program expenditures with budgeted amounts that serve as the basis for county contributions. In the event that actual program expenditures are less than budgeted, pro-rata credit for each participating county will be calculated that may be applied toward the participant county's contribution for the next fiscal year.
5. The Commissioners Courts of COUNTY #1, COUNTY #2, and COUNTY #3 Counties each agree to collectively appoint a seven (7) member Oversight Board. This board shall be responsible contract oversight, including monitoring contractor performance and overall operations and activities of the (Initials for Regional Public Defender's Office name). The board may not gain access to privileged or confidential information per Art. 25.045(d), Tex. Code of Crim. Proc.

The Oversight Board shall consist of the following seven (7) members representing a fair composition of both counties:

- One (1) member from the COUNTY #1 County Commissioners Court;
- One (1) member from the COUNTY #2 County Commissioners Court;
- One (1) member from the COUNTY #3 County Commissioners Court;
- One (1) member from the local defense bar who is not assigned cases in the public defender office's jurisdiction;
- One (1) member who is an academic professional such as a college law school professor on criminal law or a retired trial court judge who no longer presides over cases involving the public defender office;
- One (1) member who is a public defense leader such as an experienced defender from a different jurisdiction or a member of the Oversight Board of another Texas Rural Public Office;
- and
- One (1) member appointed by the Executive Director of the Texas Indigent Defense Commission.

The COUNTY #1 County Judge shall nominate the initial local defense bar member. The COUNTY #2 County Judge shall nominate the initial academic or retired trial court judge, The COUNTY #3 County Judge shall nominate the initial public defense leader or rural oversight board member for board membership. Replacements for these positions after a board member leaves shall be

nominated by board and must be approved by the COUNTY #1, COUNTY #2, and COUNTY #3 Counties Commissioners Courts.

Members of the County Commissioners Courts serve for the duration of their service in their respective offices. Other members shall serve staggered 3year terms, with no limits to the number of terms a member may serve

The terms of all initial voting members shall expire on December 31, 2026. Upon the expiration of the initial terms, all voting members shall draw lots for additional terms of three years or two years, such that half of the voting members' terms will expire in two additional years and the other half in 3 additional years. If there is an odd number of voting members at the time that lots are drawn, on more than half shall draw lots for the two-year terms.

Except for the initial terms of the initial voting members and the two-year terms described above, all subsequent terms of office for voting members shall be three years, the goal of staggering the terms of office having been accomplished. Upon the expiration of a member's term, a majority vote of the total voting membership shall be required to recommend the member for reappointment to the Commissioners Courts of the participating Counties. If a member is not affirmed for a subsequent term, the voting members shall seek and recommend nominees to the Commissioners Courts of both counties for appointment to the vacant position. A majority vote of the participating counties' Commissioners Courts is needed to formally appoint (reappoint) voting members to this Oversight Board

The Oversight Board shall be governed in accordance with the Oversight Board Plan and Policies, which is maintained in a separate document from this agreement.

6. Nothing contained in this Agreement is intended to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any Party as an agent of the other Party, for any purpose whatsoever.
7. The failure of any Party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that Party's right to insist upon appropriate performance or to assert any such right on any future occasion.
8. If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, the venue for such action shall lie in state courts located in COUNTY #1 COUNTY, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.
9. The provisions and conditions of this Agreement are solely for the benefit of COUNTY #1, COUNTY #2, and COUNTY #3 and are not intended to create any rights, contractual or otherwise, to any other person or entity.

10. It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligation hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; delays caused by unforeseen construction or site issues; fire or other casualty; court injunction; necessary condemnation proceedings; acts of the other Party, its affiliates/related entities and/or their contractors; any actions or inactions of third parties; or other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstances is similar to any of those enumerated or not; the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such performance shall be extended for a period of time equal or the period such party was delayed due to the event causing delay.
11. The Commissioners Court of a Participating County may opt out of this Agreement annually on October 1 of a given year by giving 90 days prior written notice to the Oversight Board and to all Commissioners Courts participating in the plan.

12. This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Parties as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. This Agreement may be executed by multiple originals, each to be submitted for approval to the Participating Counties' Commissioners Court.

SIGNED AND EXECUTED this _____ day of _____, 202__.

COUNTY OF COUNTY #1
STATE OF TEXAS

COUNTY OF COUNTY #2
STATE OF TEXAS

COUNTY OF COUNTY #3
STATE OF TEXAS

By: _____

Hon. Name County Judge
COUNTY #1 County Judge

By: _____

Hon. Name County Judge
COUNTY #2 County Judge

By: _____

Hon. Name County Judge
COUNTY #3 County Judge

Exhibit A.

Attach Table of Each Participating County's Percentage Contribution to County Portion of RPDO Budget