



# Indigent Defense Improvement Grant Program Supplemental Request for Applications (RFA) FY2022/FY2023

## Mental Health Defender Programs

and

## Indigent Defense Programs to Address Pandemic-Related Backlogs

### Overview

The Texas Indigent Defense Commission (TIDC) provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems. The Commission may provide Improvement Grants for any program that improves the provision of indigent defense services.

In addition to TIDC's regular appropriation for the FY2022-2023 Biennium supporting grants to improve indigent defense in Texas counties, two special appropriations are available to support certain types of projects:

- The Legislature has appropriated **\$14 million** to support grants for indigent defense that help to address pandemic-related case backlogs. Eligible projects should expand indigent defense representation capacity in affected counties or otherwise support indigent defense needs related to case backlogs.
- The Legislature has appropriated **\$5 million** for grants to create or expand Mental Health Defender Programs. Eligible programs will be new or existing public defender offices or managed assigned counsel programs providing specialized representation of indigent defendants with a mental illness. Grants may expand the capacity of existing mental health defender programs, establish mental health defender programs in counties currently without these programs, and/or sustain effective mental health defender programs. See TIDC's publication [\*Texas Mental Health Defender Programs\*](#) for program examples.

**Application opens January 10, 2022 and proposals will be considered on a rolling basis.** Potential applicants are strongly encouraged to contact TIDC early in the application process to discuss potential grant applications and confirm eligibility. Contact Edwin Colfax, Director of Grant Funding, at [ecolfax@tidc.texas.gov](mailto:ecolfax@tidc.texas.gov) or 512-463-2508 to discuss potential grant applications and confirm eligibility.

## Eligible Entities

The following entities are eligible to receive TIDC Improvement Grants:

- Texas counties. Counties may apply jointly for funding but must designate one county as the grant recipient.
- A law school's legal clinic or program that provides indigent defense services for Texas counties as described in Section 79.037, Texas Gov't Code.
- A regional public defender formed under Article 26.044, Code of Criminal Procedure that provides indigent defense services for Texas counties and meets the requirements of Texas Gov't Code Section 79.037.
- An entity described by Section 791.013, Texas Gov't Code 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 in the county.
- A nonprofit corporation that provides indigent defense services or indigent defense support services in a county. Nonprofit applicants must document support from and coordination with the county or counties and courts served.

**Period for Funding and Program Operation:** February 1, 2022 (or as soon as possible thereafter) to September 30, 2023.

**Applications Open Now, Considered on a Rolling Basis:** Applications for projects eligible under the special funding opportunities described above may be submitted at any time and will be considered for funding on a rolling basis as long as funds are available. Interested counties or other eligible organizations are encouraged to contact TIDC as soon as possible to discuss potential applications. The TIDC board may consider awards at any quarterly meeting. Applications must be submitted online through the Commission's [Grant and Plan Management Website](http://tidc.tamu.edu) (<http://tidc.tamu.edu>).

## No Matching Funds Requirement

Applicants may request up to 100% grant funding for up to two years for programs eligible under the two special appropriations described above. Proposals will be considered in light of the number of eligible applications received and funds available.

# Application Process & Requirements

## Application Requirements

Applications are submitted via the [Grant and Plan Management Website](http://tidc.tamu.edu) (<http://tidc.tamu.edu>). Each application must have a narrative section that describes the proposed activity. The narrative portion of the application consists of seven sections that must be completed. Additionally, an online budget form must be completed. Each of these elements must be completed for the application to receive full consideration. Applicants should address the eligibility of the proposed programs under the special appropriations described above. An incomplete or blank section decreases the likelihood of the program receiving funding because no score will be assigned to missing information. The online system will accept basic formatting and simple tables. The sections are:

- a. **Introduction (Executive Summary)**—In one hundred (100) words or less, describe the program and the main goals to be addressed. This paragraph will be the abstract of the project. Clearly state what the program will do and the broad goals that will be met if the program is funded. The summary will be most useful if it is prepared after the application has been developed in order to encompass all the key summary points necessary to communicate the project.
- b. **Problem Statement**—Describe the issue or problem the proposed activity is intended to improve or correct. Make a clear, concise, and well-supported statement of the problem to be addressed. Provide any formal or informal data related to the problem. Include information about the affected populations, social and economic costs of the issue, and resources currently used. Programs related to indigent defense needs related to pandemic-related backlogs should include backlog statistics and information about existing indigent defense resources and caseloads.
- c. **Objectives**—Develop clear targets and goals for the program to accomplish. State how the objectives address the problem stated above.
  - i. Objectives must be related to the program in this application and the funds requested.
  - ii. Objectives must be time/date specific and measurable.
  - iii. Objectives are the basis for the evaluation and progress reports.
  - iv. Objectives must be consistent with the Problem Statement.
- d. **Activities**—Describe the specific activities the grantee will conduct if awarded grant. The activities should support the objectives.
  - i. Include detailed instructions of step-by-step procedures that will take place to implement the program and the resources needed to complete each task.
  - ii. Make sure to incorporate the required elements for the types of programs listed on Attachment C.
  - iii. Include **start-up tasks** and the **ongoing program activities** that staff will perform to implement the program.
  - iv. Write this section so that outsiders know exactly what the grantee plans to do.
  - v. Provide justification related to effectiveness and/or economy of the activity proposed. Include supporting research on this activity if available.
  - vi. Describe whether the 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.
  - vii. If the proposed program implements a new component into an existing process or program, clarify how the new process is different from existing programs.
- e. **Evaluation**—Describe 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.
  - i. 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.
  - ii. Measure the attainment of objectives in a specific and tangible manner).
  - iii. Measures must be quantifiable.
  - iv. Measures must be time specific.
  - v. Measures must identify the manner in which they will be recorded for future review. Data collection cooperation agreements with county offices and departments are strongly recommended so that the grantee can demonstrate it will be able to meet data collection and evaluation goals.
  - vi. The evaluation provides meaning to the program objectives. 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.

- vii. Evaluations must demonstrate how the program impacts other county processes when applicable. The evaluation reports are submitted during and after the implementation phase. Evaluations are both fiscal and programmatic. Process evaluations may also be included.
- f. **Future Funding**—Describe how the proposed activity fits into the county’s long-term budget planning after the grant ends. (Programs addressing pandemic-related backlogs do not need to address plans for future funding).
- g. **Budget Narrative and Budget Form (a narrative is required in addition to completing the form)**—Counties will submit the online budget form. Budgets must clearly state the costs to implement and sustain the operation of the program. The budget narrative justifies all expenses and must be consistent with the activities and objectives.
  - i. Include all costs necessary to implement the proposed activity.
  - ii. Provide a narrative to detail and justify all budgeted expenses. This narrative must correspond to the activities sections. Items in the budget not stated in the activity section will be removed.
  - iii. Indicate in the budget and narrative the start-up or non-reoccurring costs for multi-year grants.
  - iv. Indirect costs are allowable but the application will not be considered competitive if above 10%.
  - v. 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 the Commission in writing. Otherwise, the equipment costs will not factor into the total project cost after the first year of funding.
  - vi. Budget line items must include detailed basis of cost explanations in the budget narrative.

**In addition to the full grant application narrative and budget described above, applicants must submit the following:**

1. **Resolution/Internet Submission Form** – Counties applying for grants must also submit the Resolution/Internet Submission Form (See Attachment A) in order for the Commission to consider the application. In the case of county applicants, the resolution must be adopted by the County Commissioners Court, signed by the applicant’s authorized official, and emailed to the Commission Grants Manager ([ecolfax@tidc.texas.gov](mailto:ecolfax@tidc.texas.gov)). Nonprofit organization applicants should submit a resolution adopted by their governing board authorizing the application.
  - 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 information submitted in the application material is true and correct and that the grantee will abide by all relevant rules, policies, and procedures if the Commission awards grant funds to the entity.
  - The Internet Submission Form is a separate form located on the bottom of the Resolution Form. The Internet Submission Form must contain the confirmation number that will be generated when the application is submitted. The confirmation number may be completed by hand after the Resolution Form is approved by Commissioners Court and the application is submitted.
2. **Court Commitment**– The judiciary is responsible for implementing indigent defense procedures within counties. Applications must include letter(s) of support from the judges who will participate in or implement the program (See Attachment B). Attachment B is a **sample form** and must be edited to describe the level and type of commitment the judges will provide to the specific program in the application.
3. **Other Supporting Documents**– Additional material such as timelines, data collection cooperation agreements, general letters of support, or other supporting documents must be submitted to the Commission Grants Manager before the application due date. Nonprofit

applicants must also submit organizational information, including articles of incorporation, documentation of current nonprofit status, and list of members of the governing board.

**Application opens January 10, 2022 and proposals will be considered on a rolling basis pending availability of funds.**

### **General Application Requirements**

- a. **New Programs and Positions**–Only new programs and/or positions will be funded. This may include adding new positions or new elements to existing programs. The application must clearly demonstrate that the requested positions will perform work that is not currently provided.
- b. **Grant Officials**– Each grant application must designate the following:
  - i. 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.
  - ii. 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.
  - iii. Authorized official. This person must be authorized 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.
  - iv. 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.

## **Section III: Funding Conditions & Requirements**

### **Conditions of Funding**

- 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) **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 were required to be submitted by **November 1, 2021**. Grant payments may be withheld until plans are submitted or meet the minimum requirements for each plan section set by Commission.
- 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.
- 4) **Office of Court Administration Reporting Requirements:** County and district clerks must be in compliance with monthly court activity reporting requirements promulgated by the Texas Judicial Council.

## 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: <http://www.tidc.texas.gov>.

- Texas Government Code: [Chapter 79](#) & [Chapter 81 § 054](#)
- Texas Administrative Code: Title 1 [Chapter 173](#) and [Chapter 174](#)
- [Texas Grant Management Standards \(TxGMS\)](#) as promulgated by the Texas Comptroller of Public Accounts.

## Commission Funding Policies

- a. **Right of Refusal**—The Commission reserves the right to reject any or all of the applications submitted.
- b. **State Funds Availability**— All commitments are subject to availability of funds.
- c. **Awards**— Publishing the RFA does not obligate the Commission to fund any programs.
- d. **Partial Funding**— The Commission may choose to offer funds for all or any portion of a program submitted in the application.
- e. **Substitution**—The Commission may offer alternative funding sources, special conditions, or alternative program elements in response to submitted applications.
- f. **Competitive Application Process**—The application process for the Commission's Improvement Grant Program is competitive. Awards are based on a review of the grant application and supplemental materials.
- g. **Review Criteria**—Commission staff will review each grant using objective tools and comparative analysis. The weight given to each section or combination of sections is at the sole discretion of the Commission.
- h. **Final Selection**—The Commission may select and award programs that reflect geographic diversity, demographic diversity, and/or distinctive program elements at its own discretion.
- i. **Future Funding for Multi-Year Projects**—The Commission generally commits funding only for the current grant period. Future funding will be based on the grantee's submission of an application to continue funding in subsequent years, submission of required progress reports, a demonstration of successful progress made in implementing the program, and future availability of funds.
- j. **Formula Grant**—Counties that receive multi-year improvement grants from the Commission are encouraged to continue to apply for the Formula Grant. The county will submit its Indigent Defense Expenditure Report 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 the Commission.
- k. **Supplanting Prohibited**—Commission funding can only be awarded for **new programs**; a county may not reduce the amount of funds provided for indigent defense services because of a grant award.
- l. **Dual Use**— If a county applies for an indigent defense program that may be tied to a general government process, the county 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.

## Program Fiscal Requirements

- a. **Fund Use**— Funds must be used to pay for the direct and/or administrative costs of providing and improving indigent defense services.
- b. **Allowable Costs**— Grants may be used for:
  - i. Attorney fees for indigent defendants accused of crimes or juvenile offenses;
  - ii. Expenses for licensed investigators, experts, forensic specialists, or mental health experts related to the criminal defense of indigent defendants; and
  - iii. Other approved expenses allowed by this grant program or necessary for the operation of a funded program.
- c. **Unallowable Costs**— The Commission has adopted the Texas Grant Management Standards (TxGMS) to determine unallowable costs. See TxGMS for more information about unallowable costs. Specifically, in accordance with TxGMS and the grant rules the following conditions apply:

- i. General government costs are unallowable;
  - ii. Costs of law enforcement, prosecution, and incarceration are unallowable;
  - iii. Replacing existing county funding with grant funds is unallowable; and
  - iv. Funding positions that previously existed or currently exist in the county is unallowable.
- d. 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 the Commission.
- e. Dual Use**– If a county applies for an indigent defense program that may be tied to a general government process, the county 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.

### **Grantee Reporting Requirements**

- a. Maintain Official Contact Information**– All grantees must maintain correct grant official contact information on the Commission’s [Grant and Plan Management Website \(http://tidc.tamu.edu\)](http://tidc.tamu.edu). Grantees must advise the Commission 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. Commission staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.
- b. 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 the Commission authorizes a grant award.

### **Program Records Requirements**

- a. Data Collection and Agreements**—The grantee 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.
- b. 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.
- c. Monitoring and Auditing**– Records must be made available to the Commission or its designees upon request. (See Texas Administrative Code § 173.401 for more details.)

### **Program Equipment and Purchasing Requirements**

- a. Use DIR State Contract**– Counties must purchase all technology, equipment and software must be purchased from the 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.
- b. 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. The Commission 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.
- c. 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.
- d. 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 grantee must meet commonly accepted technology standards such as Open Data Base Compliant (ODBC) or Transmission Control Protocol/Internet Protocol (TCP/IP) as applicable.

## **Contracting Requirements**

- a. Professional and Contractual Services**— Any contract or agreement entered into by a grantee that obligates grant funds from the Commission 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 and/or disallowed match.
- b. Commission Review**—Contracts with third parties for core services in funded programs must be provided to the Commission and approved prior to execution.
- c. 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. Commission staff must review each contract at least once every two years and notify the grantee if it is not sufficient (See TAC § 173.311).
- d. 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.

## Attachment A

### Sample Resolution/Internet Submission Form **Indigent Defense Improvement Grant Program**

MUST BE PRINTED FROM ONLINE SYSTEM

WHEREAS, under the provisions of the Texas Government Code § 79.037 and Title 1 of the Texas Administrative Code Chapter 173, counties are eligible to receive grants from the Texas Indigent Defense Commission to provide improvements in indigent defense services in the county; and

WHEREAS, the commissioners court authorizes this grant program and application to assist the county in the implementation and the improvement of the indigent criminal defense services in this county; and

WHEREAS, \_\_\_\_\_ County Commissioners Court has agreed that in the event of loss or misuse of the funds, \_\_\_\_\_ County Commissioners assures that the funds will be returned in full to the Texas Indigent Defense Commission.

NOW THEREFORE, BE IT RESOLVED and ordered that the **OFFICIAL DESIGNATED BY THE COMMISSIONERS' COURT** of this county is designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Indigent Defense Improvement Grant Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that the **OFFICIAL DESIGNATED BY THE COMMISSIONERS' COURT** is designated as the Program Director for this grant and the **County Auditor or County Treasurer if the county does not have an auditor (per TAC § 173.301(a))** is designated as the Financial Officer for this grant.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

This is a **Sample**. Submitted resolution submitted MUST BE PRINTED FROM ONLINE SYSTEM

County Judge

Attest:

\_\_\_\_\_  
County Clerk

# Attachment B

Sample

## INDIGENT DEFENSE MULTI-YEAR IMPROVEMENT GRANT PROGRAM SAMPLE COOPERATION AGREEMENT

Instructions: Applicants can edit and complete this sample agreement to indicate the support or participation from the local judiciary. If the Board of Judges takes official action to approve or support the grant application, please provide the Commission with signed documentation in lieu of this form. All materials must be submitted to the Commission before the due date.

\_\_\_\_\_ County has applied for a improvement grant from the Texas Indigent Defense Commission (Commission) to assist in funding \_\_\_\_\_ program. Implementation of this program will affect the courts below. The undersigned judges agree to support and/or participate with the program pursuant to the county's improvement grant application to the Commission and any special conditions of the grant award to the county. This commitment includes participating in the data collection efforts required in the program, as well as utilization of the services to be provided by the program.

To be considered for funding this program cooperation agreement must be signed by the judges of all of the statutory county / district courts hearing criminal matters punishable by incarceration or juvenile matters in the county.

Acknowledged and Approved by all statutory county / district courts hearing criminal matters punishable by incarceration or juvenile matters in the county:

\_\_\_\_\_  
Signature of Local Administrative      Date  
District Judge

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Signature of Local Administrative      Date  
Statutory County Judge

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Signature of Judge serving as      Date  
Chair of the Juvenile Board

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Signature of Judge      Date

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Signature of Judge      Date

\_\_\_\_\_  
Printed Name and Title

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Signature of Judge      Date

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Printed Name and Title

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Signature of Judge      Date

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Printed Name and Title

\_\_\_\_\_  
Signature of Judge      Date

\_\_\_\_\_  
Printed Name and Title