TEXAS TASK FORCE ON INDIGENT DEFENSE

205 West 14th Street, Suite 700 Tom C. Clark Building (512)936-6994

P.O. Box 12066, Austin, Texas 78711-2066

www.courts.state.tx.us/tfid

CHAIR:
THE HONORABLE SHARON KELLER
Presiding Judge, Court of Criminal Appeals

VICE CHAIR:
THE HONORABLE OLEN UNDERWOOD

DIRECTOR:
MR. JAMES D. BETHKE

RECEIVED COMMISSIONERS COURT 2010 SEP 13 AM 9:54

September 7, 2010

The Honorable Keith Self
Collin County Judge
210 S. McDonald Street
Suite 626
McKinney, TX 75069

Re: 2011 Indigent Defense Request For Applications (RFA) - Formula Grant Program

Dear Judge Self:

The Task Force on Indigent Defense (Task Force) is pleased to announce the availability of funding by the Texas Legislature for the improvement of indigent defense services in Texas. Collin County is eligible for an indigent defense formula grant estimated to be $343,760.00. This packet provides information on what is needed to obtain these funds. This FY2011 Grant packet is being sent to all 254 constitutional county judges. A courtesy letter will be sent to all local administrative district and statutory judges and county financial officers informing them of the availability of grant funds.

Thanks goes to the administrative judges and Chairs of Juvenile Boards that submitted their indigent defense plans using the new plan submission process. Staff have been working with counties to ensure that all of the statutory and Task Force required elements are included in each plan. Please take note during the application process if there are any outstanding issues with your county's submission and contact Task Force staff. The Formula Grant application may still be submitted.

The Task Force adopted Texas Administrative Code Chapter 173 in order to implement the grant authority established by the Texas Legislature. These **administrative rules** and the attached **RFA** are available at: http://www.courts.state.tx.us/tfid/TFID_Grant_Program.asp. The rules and the RFA establish the guidelines for the administration of grant funds and application submission process for FY2011.

Please call Bryan Wilson, at the Task Force office, toll free in Texas at (866) 499-0656, if you have any questions about the application process.

Sincerely,

Sharon Keller
Chair, Task Force on Indigent Defense
Presiding Judge, Court of Criminal Appeals

Username: kself
Password: self

TEXAS TASK FORCE ON INDIGENT DEFENSE
205 West 14th Street, Suite 700 Tom C. Clark Building Phone: (512)936-6994,
P.O. Box 12066, Austin, Texas 78711-2066, Fax: 512-475-3450
www.courts.state.tx.us/tfid

FY2011 Formula Grant Program

Requests for Applications (RFA)

September 7, 2010

Total Grant Amount Budgeted for Statewide Use Available:

FY2011- $12,000,000

Type of Grant

Formula - The Task Force distributes funds to counties through a formula that sets a $5,000 floor per grant with the remainder based on a county's percent of population (estimated by the Texas Data Center in the preceding year) multiplied by the Task Force's remaining budgeted amount for formula grant. Counties must meet minimum spending requirements to qualify.

Eligibility:

Only Texas counties may apply. See further eligibility below.

Grant Applications Due:

All applications must be submitted on-line. Applications must be completed and submitted by **October 29, 2010.** See Application section below for waiver requests and other deadlines.

Method of Application:

On-line submission can be accessed at http://tfid.tamu.edu. All county judges have been assigned a unique user name and password. See contact information below for access to the system.

Time Period for Funding:

October 1, 2010 through September 30, 2011

All grants awarded will require at least one follow-up report outside of the time period.

Commissioners Court Resolution Required:

This application is submitted on-line but requires a commissioners' court resolution/internet submission form be adopted and faxed/mailed. The resolution is generated by the on-line system and must be printed out from the on-line application page.

Funding:

Funds will be distributed in four (4) disbursements for this fiscal year for most counties.

Applicable Authority and Rules

Texas Government Code §71.062
Texas Administrative Code Chapter 173
Uniform Grant Management Standards (UGMS)

Task Force on Indigent Defense
Steps in Submitting a Grant Application

1) Log onto http://tfid.tamu.edu (Follow on-line page instructions).
2) Verify that the online screen indicates the appropriate grant officials and judicial officials.
3) Verify that the Task Force online records indicate that submitted county-wide plans are in compliance and meet the grant eligibility requirements. Contact Task Force staff to discuss compliance issues.
4) Certify the application complete by sending in the signed Resolution / Internet Submission Form along with any required plan documents.

Formula Grant Program

A. Introduction

Formula Grants are provided by the Task Force on Indigent Defense (Task Force) to help the Task Force meet its statutory mandates and to promote Texas counties' compliance with standards adopted by the Task Force.

Formula grants provide money to counties for increased indigent defense costs based on a formula set by the Task Force. Qualifying counties are eligible for funds determined by the formula only to the extent their spending exceeds spending in their baseline year. The current formula provides that all counties are eligible for a $5,000 "floor." The remaining funds set aside by the Task Force for these purposes are then allocated based on the counties' percent of the State of Texas' population estimate as determined by the Texas Data Center for the preceding year. Other grant distribution formulas may be considered in the future as more data becomes available. Counties must meet minimum spending requirements to receive credit for spending the funds.

The grant period for this application is October 1, 2010 through September 30, 2011. Expenses must be incurred and/or obligated during this time.

B. Eligibility

Only counties are eligible to apply for funds.

C. Direct Disbursement Pool

Counties with low incidence of crime and low indigent defense expenses may also choose not to submit the application. They will be eligible to receive funding under the Task Force Direct Disbursement policy and procedures. If a county has had to refund formula grant money to the Task Force or has not received grant funds in the previous year, please consider not applying for the formula grant and the county will be eligible for the Direct Disbursement Pool. This Task Force policy is intended to reduce application procedures for counties that have both low incidences of crime and low indigent defense costs. The policy governing reimbursement of eligible expenses under this policy vary depending on whether a county spent any of the formula grant funds in the preceding year.

A county that spent at least a portion of the formula grant funds in the preceding year and does not apply for a formula grant in the current fiscal year may submit receipts for direct disbursements. If it experiences indigent defense costs above its baseline year amount (or adjusted baseline), such a county is eligible to receive up to the amount of the initial allocation of funds for the county under formula grant program as established by the Task Force prior to issuing the Request for Applications for the current fiscal year. In addition, the county is also

eligible to receive the unspent balance of the initial allocation of formula grant funds from the previous fiscal year as established by the Task Force prior to issuing the Request for Applications.

A county that spent a portion of the formula grant funds in the preceding year and does not apply for a formula grant in the current fiscal year may submit receipts for direct disbursements. If it experiences indigent defense costs above its baseline year amount, such a county is eligible to receive up to the amount of the initial allocation of funds for the county under formula grant program as established by the Task Force prior to issuing the Request for Applications.

The Task Force on Indigent Defense will budget up to two-thirds of the funds allocated to counties that do not apply for formula grant funds to the direct disbursement pool. Funds will be disbursed from the pool based on a county's compliance with the current year grant eligibility requirements and written documentation that the county has actually expended its baseline year amount in addition to the amount requested. All payments considered for reimbursement are subject to availability of funds.

Applications with expense information for direct disbursement must be submitted on or before August 15, 2011. The time period for calculating the direct disbursement will be September 1, 2010 through August 15, 2011. A county that applied for formula grant funds in FY2010 may not include September 2010 in their FY2011 direct disbursement submission. This change in time period for direct disbursement calculation will not affect the time period for the statutory Indigent Defense Expenditure Report.

D. Notification

This FY11 Formula Grant - Request for Applications is sent to all 254 Texas Constitutional County Judges. A courtesy notice is mailed to all local administrative district judges, local administrative statutory county judges and each county auditor (or treasurer where there is no auditor). The notice informs other county stakeholders to seek a copy of the grant RFA from the constitutional county judge or to go to the Task Force website www.courts.state.tx.us/tfid to download a copy. The Task Force staff uses the contact information entered by county officials on its website; therefore, please make sure that all contact information is updated and correct. Counties are required to maintain correct contact information on the Task Force 'Grants and Reporting website (http://tfid.tamu.edu). The notice of grant availability is also published in the Texas Register.

E. Application

As a part of the Task Force's commitment to reducing the paperwork burdens on Texas counties, the grant application process is online.
The application steps are:

1) Review the baseline (FY01) – The baseline is the amount counties must spend in indigent defense costs before they qualify for the Formula Grant. Counties that have received or applied for grants in previous years have already established a baseline with the Task Force. To meet the requirements under Texas Government Code §71.062(d), the Task Force has adopted as an expenditure baseline of each county's FY01 indigent defense expenditures. Attorney fees, investigator expenses, expert witness expenses, and other litigation expenses paid by the county on behalf of indigent criminal defendants / juvenile respondents are allowable expenses. This information remains static unless a county requests an alternative baseline, as described below.
    - **a.** The baseline amount is used for comparison to determine grant qualification for each year.
    - **b.** To qualify for grant funds each year, the county must spend an amount at least equivalent to the FY01 baseline.
    - **c.** A county may apply (with documentation) to the grants administrator for an adjusted baseline if the county can demonstrate:

i. the baseline contained extraordinary expenses (major cases, capital cases, etc); or
ii. the county's FY01 expenses were not reflective of normal county expenditures prior to the implementation of the Fair Defense Act.

2) All applications must be submitted online using the User ID and Password included in this mailing. Contact the Task Force Grant Administrator for instructions to obtain a waiver to the on-line application.

3) If a person other than the recipient of this letter needs to obtain a user name and password for the online application system, contact The Texas A&M University Public Policy Research Institute (PPRI) – [PPRI manages the collection, storage and retrieval of data for the Task Force]. County officials contact PPRI through e-mail (djohnson@ppri.tamu.edu), fax (888-351-3485) or by regular mail:
Darby Johnson, PPRI
314 H. C. Dulie Bell Building,TAMU, Mailstop 4476
College Station, Texas 77843-4476
PPRI will not provide user names and passwords over the phone. Individuals using personal e-mail accounts may be asked to provide additional information.

a) Go to the PPRI Task Force website at http://tfid.tamu.edu

b) Enter the User ID and Password located on the cover letter in this mailing.

4) Apply on-line
   a. Sign in – The authorized official or designee logs in to the website using a unique username and password and selects "Apply for Formula Grant". A designee may actually perform the tasks if allowed by the authorized official.
   b. Select Year must be changed to FY2011
   c. Review the eligibility requirements – Each year the Task Force adopts specific Indigent Defense Plan elements as eligibility requirements for the formula grant funds. These elements encourage each county's compliance with statutory requirements or policy and standards adopted by the Task Force. Regardless of the County's eligibility status, complete the on-line Formula Grant application. Contact the Task Force on Indigent Defense for instructions to meet grant eligibility requirements.
   d. Verify the county information and update if necessary– The authorized official reviews the data the Task Force has stored for the various county grant positions. (**Note:** Please remember to update the county contact information during the grant year as changes in officials or contact information occurs.)
   e. Identify the individuals in the following grant positions as required in Texas Administrative Code Rule 173.301. Make changes as needed.
      i. Authorized official - This person must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official. (**Note**: Some counties prefer to have a district or statutory county judge serve as authorized official since this grant is related to judicial processes – this is acceptable).
      ii. Fiscal Officer - This person must be the county auditor or county treasurer if the county does not have a county auditor.
      iii. Program Director - This person must be the officer or employee responsible for program operation or monitoring or implementation of the indigent defense plan and who will serve as the point-of-contact regarding the program's day-to-day operations. **(By rule this person cannot be the financial officer).**

Use the "**Change**" Button – When the person listed is no longer authorized to perform the duties with the Task Force previously authorized by the county. It is also used to change contact information for any grant official. This situation usually arises when county officials turnover as a result of elections, retirements, or some other removal from office.

f. Select the "**Submit**" button. The page will become a confirmation page at that point. Select the Resolution link to create your county's resolution.

g. Print / download resolution – The system will allow the user to download a resolution in an MS Word document or provide an opportunity to print the document based on the selections above.

h. Receive confirmation – The system will provide a confirmation page to the grant officials confirming that the application has been completed and informing them that the resolution must be adopted by the commissioner's court and then faxed to the Task Force. **PLEASE PRINT THE CONFIRMATION PAGE.**

5) Mail (postmarked) or fax the resolution adopted by commissioners' court **by October 29, 2010** to the:

Task Force on Indigent Defense
Grant Administrator
205 W. 14th Street – Suite 600
PO Box 12066
Austin, Texas 78711
Fax (512) 475-3450

F. Review

Approximately 30 days prior to the Task Force meeting in which Formula Grants shall be officially awarded, the Grant Administrator will review the application for completeness and notify counties via e-mail, fax, or mail whether any additions or corrections are required.

G. Denial of Grant

Counties not completing the grant application process or those not meeting minimum eligibility requirements will be notified by mail within 30 days following the Task Force award meeting.

H. Authorization to Fund

Texas Government Code Sec. 71.062. TECHNICAL SUPPORT; GRANTS

(a) The Task Force on Indigent Defense shall:

(1) provide technical support to:

(A) assist counties in improving their indigent defense systems; and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) direct the comptroller to distribute funds, including grants, to counties to provide indigent defense services in the county; and

(3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by directing the comptroller to:

(A) withdraw grant funds; or

(B) require reimbursement of grant funds by the county.

(b) The Task Force on Indigent Defense shall direct the comptroller to distribute funds as required by Subsection (a)(2) based on a county's compliance with standards developed by the task force and the county's demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The Task Force on Indigent Defense shall develop policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.

Task Force on Indigent Defense
(d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the Task Force on Indigent Defense under this section

I. Use of Funds

Funds must be used to improve indigent defense systems. Attorneys fees, investigator expenses, expert witness expenses, and other direct litigation costs that a county spends on behalf of a criminal defendant or juvenile respondent in a criminal matter that has been determined by a court of competent jurisdiction to be indigent are allowable expenses. All funds must be spent in compliance with the following:
Texas Administrative Code, Title 1 Administration, Part 8 Texas Judicial Council, Chapter 173 Indigent Defense Grants;
And **Texas Uniform Grant Management Standards**
The Task Force on Indigent Defense website maintains links to electronic copies of these documents. Grant applicants/ recipients may contact the Task Force staff in writing for paper copies if no electronic means are available to secure the documents.

J. Statement of Grant Award

Statements of Grant Awards will be prepared exactly as authorized by the Task Force. These may include special conditions. The fax cover page will be directed to the official designated in the resolution adopted by the commissioners' court.

K. Special Conditions

The Task Force may determine special conditions or authorize staff to apply the conditions on criteria set by the Task Force (TAC 173.201). The Task Force may develop special conditions that relate to expenditures, compliance with statutory requirements or standards adopted by the Task Force.

L. Return of Signed Statements

Authorized officials must sign and return Statements of Grant Awards via fax within 30 days from the date of the fax. Each grant award statement will be compared to the resolution to ensure the correct official as authorized by the commissioners' court resolution signed the Statement of Grant Award. Counties that are unable to process the return of the Statement of Grant Award in a timely fashion must submit a written request for an extension.

M. Required Reports

All counties are statutorily required to submit an Indigent Defense Expenditure Report each year on November 1 in the form and manner prescribed by the Task Force. In accordance with TAC §173.109 the reporting will be through the internet.

Local Administrative District Judges, Local Statutory County Court Judges (or County Judge as applicable) and the Chairs of Juvenile Boards 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 Office of Court Administration as required in Government Code §71.0351. The Countywide Plans must be submitted by November 1st of each odd numbered year in the form and manner prescribed by the Task Force.

N. Payments

Counties must have met all eligibility, spending, and grant condition requirements before receiving payments. Payments will be made quarterly for most counties. Some counties may have a special conditions related to

meeting minimum statutory spending requirements. These counties will receive funds only after a supplemental expenditure report establishes that they have spent the predetermined minimum amount stated in the special condition.

No payment shall be made from grant funds to a county until all special conditions have been met unless the special condition adopted by the Task Force provides an alternative payment schedule or instructions for payment. Task Force staff shall maintain documentation through electronic/paper files or correspondence to the county stating how the special condition was met.

O. Maintain Official Contact Information

All counties must maintain the grant and plan officials contact information on counties' home page set up at http://tfid.tamu.edu. Counties must advise the Task Force of changes in the authorized official, program director, financial officer, local administrative district judge, local statutory county judge and county judge by updating this website contact information. This information will be used to provide notices for grant or plan submission information. The Task Force staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.

P. 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 Task Force fiscal or policy monitoring report. Failure to comply with any of these requirements could result in the Task Force imposing a remedy under TAC 173.307 or Texas Government Code §71.062.

Q. Countywide Plan Requirements

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 Countywide Plan Submission Instructions.

R. OCA Reporting

The applicants' county and district clerks must be in compliance with reporting requirements promulgated by the Texas Judicial Council. The district clerks and county clerks must submit their monthly court activity reports to OCA electronically.

S. Impact of Multi-year Discretionary Grant

Counties that receive multi-year discretionary grants from the Task Force are encouraged to continue to apply for the Formula Grant. Formula Grant payments will be made as scheduled. The county will submit its annual Indigent Defense Expenditure Report on or before November 1 of each year. If the multi-year program awarded Task Force Funding creates an overall reduction of the county's indigent defense expenses below the baseline, then the Task Force may require that all or a portion of the formula grant be returned. Regional programs are exempt from this requirement.

T. Impact of Multi-year Discretionary Regional Sustainability Grants

Counties that participate in or receive multi-year regional or sustainability discretionary grants from the Task Force are encouraged to continue to apply for the Formula Grant. Formula Grant payments will be made as scheduled. Such counties may use their formula grant to maintain the discretionary grant payments to the administrative county. The county will submit its annual Indigent Defense Expenditure Report on or before November 1 of each year.