

Agenda Item Request Form

BURNET COUNTY COMMISSIONER'S COURT

Meetings – 9:00am – 1st¹ through 4th Tuesday of Every Month

**NO ITEM WILL BE ON AN AGENDA
WITHOUT PRIOR APPROVAL BY A MEMBER OF COMMISSIONER'S COURT**

All **Contracts** must be approved by County Auditor's
And County Attorney's office prior to being on the Agenda

Agenda items and supporting documents are due to Court Coordinator's Office (Rm. 201) no later than noon on Thursday prior to the meeting date requested.

Ph: 512-715-5276 Fax: 512-715-5217 email: comcrt@burnetcountytexas.org

Presenters are to limit presentation time to no more than 5 minutes.

Today's Date: 9/18/2023
Commissioners Court Date 9/26/2023

Requested by Oakley /K. Smith

AGENDA ITEM:

Approval to except and sign Statement of Grant Award for year 3 continuation of the grant with Texas Indigent Defense Commission for FY 2023 Indigent Defense Improvement Grant for the North Hill Country Public Defender's Office.

Judge Oakley

Commissioner Pct. 1 Luther

Commissioner Pct. 2 Beierle

Commissioner Pct. 3 Wall

Commissioner Pct. 4 Dockery



CHAIR:
The Honorable Sharon Keller
Presiding Judge
Court of Criminal Appeals

EX OFFICIO MEMBERS:
Honorable Sharon Keller
Honorable Nathan Hecht
Honorable John Whitmire
Honorable Brandon Creighton
Honorable Joseph "Joe" Moody
Honorable Reggie Smith
Honorable Sherry Radack
Honorable Vivian Torres

MEMBERS APPOINTED BY GOVERNOR:
Mr. Alex Bunin
Honorable Richard Evans
Mr. Gonzalo Rios
Honorable Missy Medary
Honorable Valerie Covey

INTERIM-EXECUTIVE DIRECTOR:
Scott Ehlers

September 15, 2023

The Honorable James Oakley
Burnet County Judge
Via E-mail: countyjudge@burnetcountytexas.org

RE: FY2024 Statement of Grant Award – Grant # 212-24-C02

Dear Judge Oakley:

I am pleased to inform you that the Texas Indigent Defense Commission has awarded Burnet County a **FY2024 Continued Sustainability Improvement Grant** in the amount of **\$1,100,517** for the **North Hill County Regional Public Defender**. Your Statement of Grant Award for fiscal year 2024 is attached. Please sign, scan, and return via e-mail the Statement of Grant Award to **Edwin Colfax** at Grants@tidc.texas.gov on or before **September 30, 2023**. You do not need to mail a copy.

Congratulations to Burnet County on taking the lead in Texas by developing and continuing this indigent defense program. If you have any questions or need clarification of the information contained in this letter or the attached Statement of Grant Award, please contact Edwin Colfax, the Commission Director of Grant Funding at (512) 463-2508.

Sincerely,

Sharon Keller
Chair, Texas Indigent Defense Commission
Presiding Judge, Court of Criminal Appeals

Copy: ksmith@burnetcountytexas.org

Texas Indigent Defense Commission
209 West 14th Street, Room 202 • Austin, Texas 78701
www.tidc.texas.gov
Phone: 512.936.6994



TEXAS INDIGENT DEFENSE COMMISSION
Statement of Grant Award
FY2024 Improvement Grant

Grant Number: 212-24-C02
Grantee Name: Burnet County
Program Title: North Hill County Regional Public Defender
Grant Period: 10/1/2023-9/30/2024
Grant Award: \$1,100,517

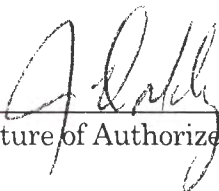
The Texas Indigent Defense Commission (herein, the Commission) has awarded the above-referenced grant to Burnet County (herein, the County) for indigent defense services. The authorized official named on the grant application must sign this Statement of Grant Award and return it to the Commission by **September 30, 2023**. The grantee will not receive any grant funds until this notice is executed and returned to the Commission. Funding is provided as listed in the categories in the table below:

FY2024 Approved Grant Program Budget	
1) Personnel (Total Number of FTEs: 13)	\$1,179,090
2) Fringe Benefits	\$386,186
3) Travel and Training	\$35,900
4) Equipment	0
5) Supplies	\$6,500
6) Contract Services	\$43,100
Total Approved Budget	\$1,650,776
Less Cash from Other Sources- County Match	\$550,259
Total Amount Funded by Commission	\$1,100,517

Standard Grant Conditions:

- The authorized official for the grantee accepts the grant award.
- 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 January 2023, including the rules and documents adopted by reference in the Commission's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.
- 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.
- Disbursement of funds is always subject to the availability of funds.
- 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.
- Any indigent defense plan documents submitted to the Commission must continue to meet all grant eligibility requirements.
- 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, 2023.

The authorized official for this grant program has read the preceding and indicates agreement by signing the Statement of Grant Award included below.



Signature of Authorized Official

JAMES OAKLEY, COUNTY JUDGE

Name & Title (must print or type)

9-26-23

Date

Attachment A

Terms and Conditions

In addition to the program requirements stated in the Request for Applications (RFA), these specific program requirements apply to this program.

1. Burnet County will directly operate a Regional Public Defender's Office as defined in Article 26.044 of the Texas Code of Criminal Procedure. Burnet County will operate the public defender program to provide indigent defense representation for qualified defendants in three participating counties in the region, including Burnet, Llano, and Blanco Counties. Participating counties will execute interlocal agreements with Burnet County reflecting each participating county's contribution to the cost of the program not covered by this grant.
2. 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. According to current TIDC Rural Regional Sustainability Grant policy, the program is eligible for 2/3 grant funding in subsequent years.
3. Burnet 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. 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 prior to finalization. The Oversight Board must meet at least quarterly.
4. 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. The county must provide to TIDC the minimum job requirements and a full job description of the staff positions specified under this project before positions are publicly posted.
6. 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.
7. 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.
8. 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.
9. 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 contract.

10. The County will submit quarterly grant program expenditure reports to obtain reimbursement of the scheduled percentage of expended funds based on actual expenditures. The reimbursements will be proportional to the county's required match. See the Timeline for Reporting and Fund Distribution at the end of this document for dates.
 11. Equipment and other start-up costs included in the first-year start-up budget will not be carried forward into subsequent years of funding.
 12. Requests to revise the scope, target, or focus 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 the Commission.
 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.
 14. Contracts with third parties for core services under this grant must be provided to TIDC and approved prior to execution.
 15. 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.
-

Original grant application follows

2022 Burnet County Improvement Grant Application Narrative (Multi-Year Grant)

a. Application Form

Counties Represented: **Blanco, Burnet, Llano**

Fiscal Year: **2022**

State Payee Identification Number: **74-6000454**

Division To Administer Grant: **Texas**

Program Title: **North Hill Country Public Defender's Office**

Requested Grant Amount: **\$1,063,224.00**

Financial Officer: **Karin Smith**

Program Director: **Michelle Moore**

Mailing Address: **220 S. Pierce St; Burnet, TX 78611**

b. Introduction (Executive Summary)

The goal of this grant request is to establish the North Hill Country Public Defender Office for FY 2022 which would provide service to indigent clients in Blanco, Burnet, and Llano Counties who are charged with

criminal offenses. North Hill Country Public Defender would provide exceptional representation and accountability in misdemeanor, felony, and juvenile cases for those who qualify financially. A mental health caseworker will address the growing mental health needs of the region and provide for alternative resolutions to cases as well as decreased recidivism.

c. Problem Statement

Burnet County Public Defender Office (BCPDO) was created in FY2012 to cover Burnet County only. Llano County has operated with a contract public defender officer for many years, but will not for FY2022. Blanco County has operated with court appointments. The three-year average costs for indigent care for the four counties are approximately \$954,453 with Burnet averaging \$715,954, Blanco averaging \$80,421, and Llano averaging \$147,700.

The total region has a population of approximately 84,459 residents and a total square mileage of 2,700 square miles. According to the 2019 U.S. Census, Blanco has a poverty rate of 8.6%. Burnet has a poverty rate of 10.5%, and Llano has a poverty rate of 10.8%. This region has two district courts - the 33rd and the 424th District Courts - that hear all felony cases. Burnet has a County Court-at-law while Blanco and Llano have Constitutional County Courts.

The majority of cases in this region center around methamphetamine use and untreated mental illness. Criminal cases in this region cover the full gamut of the Texas penal code, including death penalty cases.

The 33rd/424th Judicial District Community Supervision and Corrections Department estimates put substance abuse issues for probationers at approximately 58% and mental health issues for probationers at 40.2%. These figures do not include those defendants who have gone on to prison or jail or have been exonerated.

Mental health providers differ between the counties as do the range of services. Burnet County has a jail diversion caseworker with Bluebonnet Trails MHMR; however, it is unknown if other jail diversion caseworkers actually go into the other jails. For clients needing MHMR services outside of the jail, the wait for counseling and medication is at least a month. While waiting for the MHMR appointment, the clients will often self-medicate which exacerbates the problems.

Homeless shelters are virtually non-existent in the region. There are shelters in the region for women who have been abused and a few beds for drug addiction. Those shelters work with the Burnet County Public Defender's Office closely and have provided shelter whenever possible. His Joshua House and Open Door Recovery also work closely with the Drug Court that covers this four-county area and help with beds when they can.

At present, the BCPDO is overwhelmed with maintaining caseloads without additional help on the juvenile cases and the increasing number of mental health cases. BCPDO attorneys currently split the juvenile cases among all of the attorneys. With the additional staffing, the NCHPDO could maintain the recommended caseload standards and provide exceptional representation for our clients. The BCPDO spends countless hours trying to find appropriate shelter, counseling, and medicine for our MHMR clients. Increased care for the mental health population will make Burnet County safer and help with rising recidivism rates from a population that has no shelter and cannot get access to medications.

See Other Supporting Document for additional information.

d. Objectives

Our objective is to provide exceptional representation to indigent clients who are accused of criminal offenses including misdemeanors, felonies, juvenile cases and appeals. Our desired outcome is to provide this service as well as accountability to each of the counties.

Proposed goals for the program include:

1. Hire 5 attorneys, 1 caseworker and 1 support staff within 90 days of funding.
2. Provide high-quality, cost-effective representation to indigent defendants in the region while maintaining caseloads of 138 felony cases per attorney per year or 239 misdemeanor cases per attorney per year.
3. Measure and track criminal cases handled by the North Hill Country Public Defender Office, to ensure transparency in the system and to provide accountability to the participating counties.
4. Provide training to the caseworker in Article 16.22 evaluations and coordinate with the jail and the local MHMR providers to ensure proper services are provided.
5. Provide training to the caseworker in Chapter 46B standard and procedures to allow for early detection and advocacy for potentially incompetent clients and to coordinate services with evaluators, treatment providers, the courts and other interested parties.
4. Provide continued in-house training to the attorneys and caseworker in the office to ensure continued high-quality representation.

e. Activities

The North Hill Country Public Defender Office would be using the base established by the Burnet County Public Defender Office but would be required to establish another office for the other counties in Llano.

In addition, the NHCPDO would:

1. Establish a new North Hill Country Public Defender Office (NHCPDO) Oversight Board to oversee and make recommendations as needed to the County Commissioners in Blanco County, Burnet County, and Llano County. The Oversight Board will meet as often as needed to oversee the NHCPDO.
2. Continue to employ the Chief Public Defender who will continue to ensure the NHCPDO is fully staffed with qualified attorneys, assistants, and investigators as needed, funded and approved.
3. The Chief Public Defender will be responsible for the management and operation of the NHCPDO and will maintain a 25% caseload.
4. The Chief Public Defender will ensure that all staff follow the NHCPDO policies and procedures manual developed and approved by the Oversight Board and submitted to TIDC and complete an annual review.
5. Attorney caseloads for the NHCPDO will follow the recommended guidelines for caseloads.
6. The NHCPDO will expand the Burnet County Public Defender Office caseload management system to meet the operational needs of the NHCPDO. Those numbers will be available for the participating Commissioners Courts at any time.
7. The NHCPDO will serve as a regional resource for quality representation in the communities it serves and will provide low cost or free Continuing Legal Education to the local criminal defense bar.
8. The caseworker will work with stakeholders to identify clients with mental health issues after their arrest.
9. The caseworker will work closely with the attorneys in the NHCPDO to assess clients with mental health issues and to provide referrals to appropriate service providers.
10. The caseworker will testify in court as needed.

f. Evaluation

In addition to the specific grant performance measures and the Indigent Defense Expenditure Report measures required by the TIDC, the NHCPDO will track monthly and report quarterly to the Oversight Board, the Commissioner's Courts and TIDC the following:

13. Documentation of the hiring of the additional attorneys, support staff and caseworker.
2. Quarterly data reports that document the number of criminal cases handled for the attorneys.
3. Caseworker intake forms and any referrals, if issued, will be kept for every client in the client's file.

g. Future Funding

The North Hill Country Public Defender Office is created on a sustainable basis for the counties involved. Blanco, Burnet, and Llano Counties are committed to providing quality representation to indigent defendants while utilizing public monies in a cost effective manner, With 80% funding for Blanco, and Llano Counties for the first year of the grant and a continued 66.6% funding to all of the counties, the counties will modify their interlocal agreements to reflect increased or decreased costs, after year 3.

h. Budget Narrative and Budget Form

Salaries are requested for the following positions:

Chief Public Defender (1) \$114,404

Establish, operate, and supervise all aspects of the North Hill Country Public Defender Office (NHCPDO).

The NHCPDO will represent indigent felony, misdemeanor, and juvenile defendants

Assistant Public Defenders

Felony (5) \$79,269 each

Juvenile (1) \$74,063

Misdemeanor (2) \$74,063 each

Provides a full range of legal services to indigent defendants in the assigned cases for NHCPDO.

Document processing, and/or record keeping, and preparation and presentation of legal cases in jury and bench trials are necessary to fulfill this position.

Legal Assistant (2) \$44,241 each

Performs complex administrative tasks at and to ensure efficient daily departmental operation. This position coordinates assignments and manages the daily operations of the department.

Courtroom presence is required as is the preparation of legal documents as supervised by an attorney.

Investigator (1) \$64,186

Performs investigations of felony, misdemeanor and juvenile charges filed against individuals being represented by the NHCPDO.

Caseworker (1) \$55,523

Responsible for creation of a case management plan that determines the best services available for clients on the mental health caseload, will get the client to those services and provide aftercare for a reasonable period to reduce the possibility of recidivism.

Longevity \$12,320

Total Salaries and Longevity (13 positions) \$955,107

Benefits Estimated 35.4% or \$337,806

Including FICA/Medicare (.0765), Insurance \$11,000, Retirement (11.73%), Workers Compensation (various dependent on position), Unemployment .25% and Sudden Death Benefits .31%

Office Supplies - \$6,500

\$500 per employee (13)

One Time Equipment: \$36,800

Office Setup – Includes 8 desks, chairs and lateral filing cabinets

Computers and accessories - \$30,800

Includes 8 Laptops, docking station, monitor and accessories

One time Copier - \$6,000

Llano office – purchase is more cost efficient than leasing

Travel and Training: \$26,788
 Travel: \$16,284
 Costs of travel by staff including mileage, lodging and meals where applicable.
 Training: \$10,504
 Continuing education

Contract Services: \$59,789
 Rent -31,700
 Utilities - \$14,000
 Telephone – 9,100
 for two locations Burnet and Llano.
 Leased Printer – Burnet \$4,989

TIDC Note - Revised FY2024
 budget request follows on page 10

Personnel Costs		\$1,292,913.00
FTE's	13.00	
Salary	\$955,107.00	
Fringe Benefits	\$337,806.00	
Travel and Training		\$26,788.00
Equipment		\$36,800.00
Supplies		\$6,500.00
Contract Services		\$59,789.00
Indirect		
Total		\$1,422,790.00
Required County Match		\$359,566.00
Total less County Match		\$1,063,224.00

APPLICATION SUPPLMEMENT BELOW

Burnet County has historically given the Burnet County Public Defender’s Office (BCPDO) approximately 85% of the indigent cases in felony, misdemeanor, and juvenile. (Due to COVID in 2020 reference is being made to 2019 numbers which are more reflective of actual court numbers in a regular year.) In misdemeanor indigent cases in 2019, Burnet County had 493 indigent misdemeanor cases and Llano had 110 indigent misdemeanor cases. (Blanco County is not opting to utilize a future public defender’s office for misdemeanors at present.) In felony indigent cases in 2019, Burnet County had 497 cases, Blanco had 115 cases and Llano had 209 bases. In juvenile indigent caseloads in 2019, Burnet Count had 36 cases, Blanco County had 1 and Llano County had 11. With a total projected indigent caseload in misdemeanors of 573 cases and a recommended caseload of 239 misdemeanor cases per attorney, the total number of misdemeanor attorneys needed would be 2.3. This need would be met by adding to the established 1 misdemeanor attorney in Burnet County with 1 additional full-time attorney and by supplementing with the juvenile attorney within the caseload boundaries. With a total projected caseload of 732 indigent felony cases and recommended caseloads of 138 per felony attorney, the total number of felony attorneys needed would be 5.1. At present, the Burnet County Chief

Public Defender carries a full felony caseload. This would be reduced to 25% in order to allow for the Chief to fulfill her administrative duties. Because the current Chief has extensive criminal defense experience, this number would allow for utilization of that experience. This percentage is maintainable because the district judges split the same jurisdiction which allows for an easier flow of the courts and the cases. With the reduction of the Chief's caseload, 2 additional felony attorney would be hired for the Burnet County Office allowing for 3 felony attorneys in Burnet and 2 additional felony attorneys in Llano and Blanco counts, totaling 5.25 felony attorneys. The addition of the juvenile attorney would cover all of the juvenile cases in Blanco, Burnet and Llano Counties, which would need approximately .2 of that attorney's time. This would allow the juvenile attorney to fill in on misdemeanor and felony cases as their caseload permits. Burnet and Llano Counties would utilize the North Hill Country Public Defender's Office for misdemeanor, juveniles, and felonies while Blanco would utilize the NHCPDO for juveniles and felonies at present. With these proposed changes, the NHCPDO would have a total of 9 attorneys, 1 investigator, 1 mental health caseworker and 2 support staff. The misdemeanor cases as well as the juvenile cases rarely go to trial so no additional investigator is deemed necessary and meets the recommended standards.

Approved FY2024 Budget Modification Request follows

TIDC Grant Budget Adjustment Request

RE: FY2024 Budget Adjustment Request - Grant Number SG-23-005

Burnet County requests a budget adjustment for the North Hill Country Public Defender's Office *Improvement Grant Program*. The details of the request are indicated in the table below:

Direct Costs	Current Approved Budget	Requested Line-Item Change	Requested Adjusted Budget
1) Personnel	1,101,708	1,179,090	77,382
2) Fringe Benefits	389,656	386,186	-3,470
3) Travel and Training	35,900	35,900	
4) Equipment			
5) Supplies	6,500	6,500	
6) Contract Services	54,100	43,100	-11,000
7) Indirect Costs			
Total Proposed Costs	1,587,864	1,650,776	62,912
Less Cash from Other Sources	529,287	550,270	41,941
Total Amount Funded by Commisison	1,058,577	1,100,506	20,971

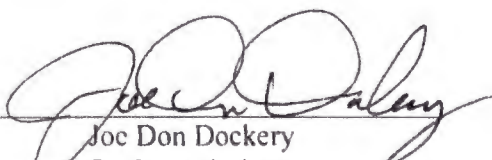
1. Rationale for Adjustment – Explain in detail the proposed changes to the budget and why they are needed. Be specific and use statistics, if possible. Use as much space as necessary to fully explain why the changes are necessary. Attach more detailed “before and after” budget category breakout as needed to fully explain changes.

Burnet County has historically given COLA raises each fiscal year. The county auditor has estimated that the Burnet County Commissioners County will give a maximum 8% raise. Estimate cost of insurance is budgeted at 5% raise, however other fringe benefits decreased. Rent decreased because of the newly purchased building causing contract services to be less.

2. Detail any proposed changes to the staffing model and why they are needed.

3. Explain any proposed change in program Scope or Program Activities

Sincerely,


Joe Don Dockery
Sr. Commissioner

4/26/2023
Date

Timeline for Reporting and Fund Distribution

Reports will be submitted on-line at <https://tidc.tamu.edu>.

Reporting Period	Type Report Due	Date Report Due	Fund Distribution Date
October 2023 through December 2023	Grant Expenditure Report Progress report	January 15, 2024	February 2024
January 2024 through March 2024	Grant Expenditure Report Progress report	April 15, 2024	May 2024
April 2024 through June 2024	Grant Final Expenditure Report Final Progress report	July 15, 2024	August 2024
July 2024 through September 2024	Grant Expenditure Report Progress report	October 15, 2024	November 2024