Texas Indigent Defense Commission
Statement of Grant Award

FY2013 Continued Multi-year Discretionary Grant

Grant Number: 212-23-D05
Grantee Name: Burnet County
Program Title: Burnet County Public Defender Office
Grant Period: 10/1/2012-9/30/2013
Grant Award Amount: $292,950

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 8, 2012. 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:

<table>
<thead>
<tr>
<th>Direct Costs:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Personnel (Total Number of FTEs: 5)</td>
<td>$291,490</td>
</tr>
<tr>
<td>2) Fringe Benefits</td>
<td>$100,564</td>
</tr>
<tr>
<td>3) Travel and Training</td>
<td>$13,600</td>
</tr>
<tr>
<td>4) Equipment</td>
<td>$0</td>
</tr>
<tr>
<td>5) Supplies</td>
<td>$56,900</td>
</tr>
<tr>
<td>6) Contract Services</td>
<td>$0</td>
</tr>
<tr>
<td>7) Indirect Costs</td>
<td>$0</td>
</tr>
<tr>
<td>Total Proposed Costs</td>
<td>$462,554</td>
</tr>
<tr>
<td>Less Cash from Other Sources- County Match</td>
<td>$169,604</td>
</tr>
<tr>
<td>Total Amount Funded by Commission</td>
<td>$292,950</td>
</tr>
</tbody>
</table>

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 on December 7, 2011, 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 deobligating 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 “Required Conditions and Report” contained in Attachment A.
- 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 and submit it to the Commission by December 31, 2012.

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

[Signature]

Date: 8/14/12
Name & Title (must print or type): Donna Klaeger, Burnet County Judge
Attachment A

Required Conditions and Reports

Method of Calculation

The budget appearing in the Statement of Grant Award was developed under the assumptions that the grant be based on a 12-month period. The schedule provides the county twelve months of funds at each of the original agreed upon funding levels. If the county had a delayed start in the first year (FY2012), it may necessitate an adjustment in future years to allow the county to fully expend grant funds. The intention is to follow a declining schedule of 80 percent in the first year; then, 60 percent in the second year; then, 40 percent in the third year; and 20 percent in the final year of the Commission support. The grants will remain on a fiscal calendar (October to September), but future awards will reflect any needed modifications to implement this policy. The original grant scheduled was modified by the Commission for FY2013 to include on-going rent for this program. This allowance will be reviewed each year.

Program Requirements

In addition to the program requirements stated in the Request for Applications (RFA) these specific program requirements apply to this funded program (Note: If the County contracts the public defender office to a non-profit corporation or governmental entity, then the corporation or governmental entity will ensure the following are performed):

— The County will continue to operate a Public Defender Program set up under the FY2012 Discretionary Grant Program and as defined in Article 26.044 of the Texas Code of Criminal Procedure as amended by the 82nd Legislature.

— The County will submit reports to obtain reimbursement of expended funds based on actual expenditures. The reimbursements will be proportional to the County’s required match.

— This grant requires quarterly progress reports to provide information on the effectiveness of the program. The Commission grants administrator will construct an on-line progress report that best reflects the actual work performed in this program and is consistent with the FY2012 application listed below as edited and agreed to. The County will be able to request modifications to the on-line report when the performance measures are determined to not accurately reflect the work performed.

— The County must maintain a Public Defender Oversight Board in accordance with Texas Code of Criminal Procedure Article 26.045 to supervise the operation of this program. The County will submit a written policy on how the members are selected and details the duties and procedures of the board.

— The County or its designee must maintain a written policy that includes caseload standards for each attorney and for the general operation of this program. In developing caseload standards, nationally recognized standards and standards used by other states shall be taken into consideration (such as National Advisory Commission on Criminal Justice Standards and Goals). The written policy for caseload standards should be provided to the Commission staff along with the first quarterly progress report. The caseload standard policy should require the Chief Public Defender to review actual caseloads at least quarterly. The Chief Public Defender may approve higher or lower caseloads than the adopted standard based on overall complexity of cases, overall type of cases, attorney experience, support staff experience, court needs, available technology to augment services, or other factors that affect the delivery of services. The Chief Public Defender must notify the program’s Oversight Board in writing if an exception to the caseload standards is authorized.

— The County or its designee must provide to the Commission staff the minimum job requirements and a full job description of the FTE positions specified under this project before positions are publicly posted.
— The program’s Oversight Board is responsible for recommending to commissioners court the selection or approval of the Chief Public Defender or non-profit entity. The Chief Public Defender will be responsible for the implementation of this program and will hire staff sufficient to meet the operation of the department. Staffing with attorneys and support personnel will be incremental, beginning with the selection of a Chief Public Defender. In addition to responsibility for the setup of the program in the first year, the Chief Public Defender is expected to maintain at least a 50 percent caseload.

— The County will conduct a survey of local stakeholders involved with the program designed to elicit feedback on the impact and performance of the program. The County must summarize the results received back from the participants of the survey and discuss any improvements made to the program. The County must provide the Commission with a draft of any survey instrument for feedback before it is distributed and provide to the Commission a copy of the analyses of responses (not the unanalyzed survey responses).

— The Public Defender’s Office will record attorney and support staff work time in a manner that allows for accurate completion of the Public Defender Addendum to the Indigent Defense Expenditure Report. Records must contain sufficient detail to appropriate time and salary across categories of offenses (capital, non-capital felony, misdemeanor, juvenile, felony appeals, misdemeanor appeals, and juvenile appeals).

— A draft of the updated Public Defender Office Case Representation Policies and Procedures Manual must be provided to the Commission along with the 2nd quarterly progress report. Grantees should consider professional standards of representation such as the Texas State Bar Performance Guidelines for Non-Capital Criminal Defense Representation when developing the manual.

— The County must provide a plan of data collection by the first progress report that includes a list of data elements that capture the work performed under this program or impact on the county’s compliance with the Fair Defense Act. The County must submit data collection agreements from county offices or departments to provide this data to the program director on a regular basis to measure the impact of this program.

VTC

— The County will establish conditions conducive to maintaining attorney client privileged communication. These conditions shall include confidential videoconferencing communication at both locations of the communication and provide that no recording of the communication shall be made.

— The County will not record videoconferencing communications between court officials/court staff and defendants during ministerial proceedings unless conducted as part of the Texas Code of Criminal Procedure Article 15.17 hearings.

— The County will provide for reasonable protection from third party interception of videoconferencing communication between the videoconferencing sites when purchasing equipment with these funds.
Application Form
Counties Represented: Burnet
Fiscal Year: 2013
State Payee Identification Number: 17460004546
Division To Administer Grant: Burnet County Judge's Office
Program Title: Burnet County Public Defender Office
Requested Grant Amount: $292,950
Financial Officer: Karen Lester
Program Director: Michelle Moore
Mailing Address: Burnet County Courthouse; 220 S Pierce St.; Burnet, TX 78611

Introduction (Executive Summary)
Burnet County seeks to improve the quality of indigent defense services in Burnet County through the establishment of the Burnet County Public Defender Office (BCPDO). The BCPDO will provide defense to qualified indigent criminal defendants in felony, misdemeanor, and juvenile cases.

Problem Statement
Burnet and Llano Counties currently contract with one private attorney to provide indigent defense services while San Saba County uses a wheel rotation system. These systems have worked in the past, but as the number of criminal cases increases, the lack of accountability, transparency and representation measures inherent to the systems have become apparent to the counties. The counties seek to improve the ability to monitor compliance with the Fair Defense Act and control costs. The population of Burnet, Llano, and San Saba Counties increased 30%, 12%, and 8% respectively between 2000 and 2010. The counties would like to address the issues of a growing rural population before the region finds itself with a system of indigent defense that is financially unsustainable and lacks the necessary reporting mechanisms to demonstrate fidelity to the Fair Defense Act.

Objectives
Burnet County will continue to operate the Burnet County Public Defender Office (BCPDO) to provide improved representation in felony, misdemeanor, and juvenile cases in the county. In order to address the challenges laid out above, the program will meet the following objectives:

Objective 1: Measure, track, and improve fidelity to the Fair Defense Act. With the majority of criminal cases being handled by the BCPDO, reporting of indigent services provided by the County should become more efficient and accurate, enabling the County to adhere to all aspects of the Fair Defense Act, increase transparency of the system, and allow the Counties to meet the reporting requirements of the Task Force.

Objective 2: Provide high quality, cost-effective representation to indigent defendants in the county.

Objective 3: Develop a realistic and predictable budget for indigent defense based on research of BCPDO caseload limits, necessary staffing levels, jail populations, bonding, pretrial diversion, etc.

Objective 4: Operate and maintain videoconferencing connections between Burnet County criminal courts, the jail and Public Defender Office.
Objective 5: Ensure that Spanish speaking indigent defendants have access to a defense attorney who is proficient in Spanish.

Methodology or Project Design (Activities)
In accordance with Texas Code of Criminal Procedure, Article 26.044, Burnet County proposes to create the Burnet County Public Defender Office.

1. Continued operation of the BCPDO Oversight Board to oversee the BCPDO and make recommendations as needed to the Burnet County Commissioners’ Court. Oversight Board composition includes but is not limited to the Burnet County Judge, Burnet County Jail Magistrate, 33rd/424th District Judges, Burnet County Court-at-Law Judge, a Burnet County Commissioner, a private defense attorney who is also a member of the local bar association and Burnet County citizens. The oversight board will meet as often as needed to oversee the BCPDO.

2. All power and authority for setting policy and overseeing the operation of the BCPDO shall be vested in the Oversight Board except to the extent required by law to remain in the Commissioner's Court. At a minimum, the Oversight Board will set the optimum caseloads for the BCPDO, recommend their selection of the Chief Public Defender and establish policies that govern the removal of the Chief consistent with county personnel policies and procedures.

3. Continue to employ the Chief Public Defender who will continue to ensure the BCPDO is fully staffed with qualified attorneys, assistants and investigators as needed, funded and approved.

4. The Chief Public Defender will be responsible for the day-to-day management and operation of the BCPDO and will maintain a 50% caseload.

5. The Chief Public Defender will ensure that all staff follow the BCPDO policies and procedures manual developed and approved by the OSB and submitted to TIDC and complete an annual review to identify any updates or revisions needed. The annual review should occur on or before December 15th each year.

6. The Chief Public Defender will replace staff and attorneys as needed when a vacancy arises in a manner consistent with Burnet County personnel policies and procedures. Staff positions, salaries, and job descriptions will be consistent with Burnet County policies.

7. The Chief Public Defender will work with the courts to include appointment of the Public Defender in the county-wide indigent defense plans required under Government Code 71.0351.

8. Attorney caseloads for the BCPDO will be consistent with standards that have been set by other public defender programs in Texas. The duties of the support staff will be delineated to reduce the administrative task of attorneys.

9. The Chief Defender may make temporary adjustments to caseload policies depending on the overall complexity of certain cases, the type of cases, attorney experience, support staff experience, or other factors affecting the delivery of services. The Chief Public Defender will notify the oversight board in writing if exceptions to caseload standards are required.

10. The BCPDO will set up a case management and monitoring system that meets the operational needs of a fully-functioning regional public defender office and facilitates routine reporting of program performance to the oversight board and to the general public.

11. The BCPDO will issue quarterly reports that provide relevant information about the program’s impact, performance, and areas of improvement to the oversight board, Burnet County Commissioners Court, and the Task Force on Indigent Defense.

12. The BCPDO will deploy a videoconferencing system that can provide connectivity between
the PD Office(s), the jails and courts of participating counties, and if applicable other privately operated detention facilities used by participating counties. BCPDO attorneys and staff will participate in videoconferencing training to ensure successful deployment of technology and to ensure attorney/client privilege.

13. The BCPDO will make available at least one Public Defender to appear in each Court (i.e. arraignments, docket calls, etc.) Appearance may be in person or via video conferencing when appropriate.

14. The BCPDO will operate in a manner that meets the requirements of the Texas Fair Defense Act.

15. An appointment wheel of qualified attorneys, as determined by the Presiding Judges of each court, will be utilized in cases of conflict or multiple defendants. The BCPDO will offer assistance as appropriate to assigned counsel. Each court will be responsible for the costs of appointed attorneys and must budget accordingly.

16. The BCPDO will serve as a regional institutional resource for quality representation in the communities it serves. It will provide mentoring to newly licensed attorneys, plea and motion resources to attorneys accepting conflict cases, and low cost or free Continuing Legal Education to the local criminal defense bar.

**Evaluation**

In addition to the specific grant performance measures and Indigent Defense Expenditure Report measures required by the Task Force, the BCPDO will track monthly and report quarterly the following to the oversight board, Burnet Commissioners’ Court and the Task Force:

1. Fiscal impact of the BCPDO estimated through data regarding pre-trial jail populations, travel costs replaced through videoconferencing, time to first attorney contact, time to final disposition, and use of support services, among others.

2. Requests for bond reduction, PR bonds, and/or jail diversion when appropriate.

3. BCPDO failures to appear in court.

4. The Oversight Board will establish a system to survey Defendants regarding their experience with the BCPDO during the second and fourth fiscal years of the grant. The Oversight Board will review these surveys and make recommendations to the Burnet County Commissioner’s Court and the BCPDO to ensure compliance, quality, and efficiency of services provided.

5. Burnet County may contract with an independent evaluator/researcher and/or the Task Force to conduct a comparative analysis of indigent defense in the region before implementation of the BCDO and at the end of the fourth year. This analysis will rely on quantitative measures such as time to appointment and attorney contact with client. It will also rely on qualitative measures to outline the experiences of judges, attorneys, and defendants in the new system of indigent defense. Burnet County and the BCPDO will work closely with researchers and the Task Force to determine the measures needed to demonstrate the successes and/or shortcomings of the program.

6. **Future Funding**

Burnet County is fully committed to providing quality representation of indigent defendants while using public funds in a cost-effective manner. As part of a rapidly growing rural area, Burnet and surrounding counties face unique challenges related to indigent defense including a 25% population growth in Burnet County since 2000. To meet these challenges, Burnet County has sought out a
solution that will allow the county to effectively meet the needs of the indigent in the criminal justice system.

The County anticipates continued applications for grant funding every year that funding is available. The first year of funding will include start-up costs of the program; subsequent funding years would not include the costs related to building the necessary infrastructure. Total program costs would, therefore, be within reach of Burnet County, and it is anticipated that funding for the office would be approved by the Commissioners Court, provided that the program can demonstrate cost-effective and quality representation. Increased levels of state funding will help ensure that the program has time to grow and solidify its infrastructure before full fiscal responsibility for the program is released to Burnet County.

**Budget Narrative**

The BCPDO will continue to be staffed with three attorneys including one Chief Public Defender; one First Assistant Public Defender; one Assistant Public Defender; one investigator; and one legal assistant. Total salaries include a possible 5% increase over FY 12 for Cost of Living Adjustment (COLA). Benefits are approximately 30% of salaries and include a projected cost increase of 15%.

The Chief PD will be expected to carry at least a 50% caseload, and the attorney caseload is estimated at 900 misdemeanors with 1.5 attorneys, 360 felony cases with 1.5 attorneys or 100 juvenile cases or any combination of cases as deemed appropriate by the Chief.

Training and Travel includes attorney CLE, attorney travel, investigator training and travel, as well as support staff travel and training costs and costs to attend non-CLE training related to technology or other topics deemed beneficial to PDO staff.

As a second year of a multi-year request equipment costs are not included. Westlaw or similar expenses have been moved to the Supplies category.

**Timeline for Reporting and Fund Distribution**

Reports will be submitted on-line over the Internet.

<table>
<thead>
<tr>
<th>Reporting Period</th>
<th>Type Report Due</th>
<th>Date Report Due</th>
<th>Fund Distribution Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2013 through March 2013</td>
<td>Budget Status Report Progress report</td>
<td>April 15, 2013</td>
<td>April 2013</td>
</tr>
</tbody>
</table>