

**MINUTES  
BOX ELDER COUNTY COMMISSION  
JULY 17, 2024**

The Board of County Commissioners of Box Elder County, Utah met in an Administrative/Operational Session at the County Courthouse, 01 South Main Street in Brigham City, Utah at 11:15 a.m. on **July 17, 2024**. The following members were present:

Lee Perry	Chairman
Boyd Bingham	Commissioner
Stan Summers	Commissioner
Marla Young	Clerk

The following items were discussed:

1. Agenda Review/Supporting Documents
2. Commissioners' Correspondence
3. Staff Reports – Agenda Related
4. Correspondence

The Administrative/Operational Session adjourned at 11:19 a.m.

The regular session was called to order by Chairman Perry at 11:30 a.m. with the following members present, constituting a quorum:

Lee Perry	Chairman
Boyd Bingham	Commissioner
Stan Summers	Commissioner
Marla Young	County Clerk

The prayer was offered by Chairman Perry.

The Pledge of Allegiance was led by HR Manager Jenica Stander.

**APPROVAL OF MINUTES**

**THE MINUTES OF THE REGULAR MEETING OF JULY 9, 2024 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER SUMMERS, SECONDED BY COMMISSIONER BINGHAM AND UNANIMOUSLY CARRIED.**

**ATTACHMENT NO. 1 - AGENDA**

**ADMINISTRATIVE REVIEW/REPORTS/FUTURE AGENDA ITEMS – COMMISSION**

**PILT Funding - Chairman Perry**

Chairman Perry reported the county received the annual PILT (Payment in Lieu of Taxes) from the Department of the Interior in the amount of \$4,037,435.00.

Commissioner Summers stated that they have been working hard over the years to continue the process of receiving these funds and have worked diligently to get it increased. He said it has increased over the past couple of years.

**FORMER AGENDA ITEMS FOLLOW-UP – COMMISSIONERS**

There were no Former Agenda Items discussed.

**EMERGENCY MANAGEMENT ISSUES**

**Fire on Hogup Mountain - Chairman Perry**

Chairman Perry reported there is a large fire on Hogup Mountain that started two days ago. He thanked those who are helping to contain it. He said it is a hard area to access.

**ARPA/LATCF**

There were no ARPA/LATCF items discussed.

**BOX ELDER COUNTY EMPLOYEE RECOGNITION**

Chairman Perry stated they received two nominations for Chad Gatehouse as Employee of the Month. He read the nominations which stated Chad has stepped up for maintenance at the fairgrounds and if he doesn't know how to fix it he is willing to learn about it. He is a hard worker and they are happy to have him on their team.

The Commissioners presented Chad Gatehouse with a certificate.

**ATTORNEY'S OFFICE**

**Approval for ICAC Grant MOU #24-31-Madison Cordova**

Madison Cordova, Investigator with the County Attorney's Office, presented the MOU for a grant for ICAC (Internet Crimes Against Children) in the amount of \$10,000. She explained the grant will help them to continue to investigate. She gave some statistics of their work and their goals. She said the funding helps to provide computers and software for phone downloads.

**MOTION:** Commissioner Bingham made a motion to approve MOU #24-31. The motion was seconded by Commissioner Summers and unanimously carried on a roll call vote of Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

**2025 Public Defenders Grant Agreement #24-32-Michael McGinnis**

Michael McGinnis, Manager for Box Elder County Public Defenders, stated they applied for a grant for the 2025 year and Agreement #24-32 is that grant. All of the grants have been renewed. He said that there have been cutbacks but luckily our grants have not been affected.

**MOTION:** Commissioner Summers made a motion to approve Agreement #24-32. The motion was seconded by Commissioner Bingham and unanimously carried on a roll call vote of Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

**ATTACHMENT #2 - MOU #24-31**

**COMMISSIONERS**

**Participation Agreement #24-33 in the Kroger National Opioid Settlement-Anne Hansen**

Attorney Stephen Hadfield explained Participation Agreement #24-33 regards the opioid settlement.

**MOTION:** Commissioner Bingham made a motion to approve Agreement #24-33. The motion was seconded by Commissioner Summers and unanimously carried on a roll call vote of

Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

**ATTACHMENT NO.3 - Agreement #24-33**

**August Commission Meeting Schedule Discussion-Commissioners**

Chairman Perry stated there is a need to change the Commission meeting schedule in August due to fair week. He suggested they hold the evening Commission Meeting on Thursday August 1, 2024 and the daytime meeting on August 14, 2024.

**MOTION:** Commissioner Summers made a motion to change the August Commission meetings as suggested. The motion was seconded by Commissioner Bingham and unanimously carried on a roll call vote of Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

**COMMUNITY DEVELOPMENT**

**Beckam's Edge Subdivision Phase 4-Scott Lyons**

County Planner Destin Christiansen stated there will be an improvement agreement for the Beckham's Edge Subdivision Phase 4 and suggested the Commission table the item until the documents are received.

**MOTION:** Commissioner Bingham made a motion to table the Beckham's Edge Subdivision Phase 4. The motion was seconded by Commissioner Summers and the item was tabled on a roll call vote of Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

**BUILDINGS & GROUNDS**

**Generator Bid Proposals-Codey Illum**

This item was canceled.

## **HUMAN RESOURCES**

### **Policy 3 Update-Jenica Stander**

HR Manager Jenica Stander reviewed the Policy 3 Update. She explained it makes all pay statement deliveries done electronically. They will give the employees six weeks notice.

**MOTION:** Commissioner Summers made a motion to approve the Policy 3 Update. The motion was seconded by Commissioner Bingham and unanimously carried on a roll call vote of Chairman Perry voting Yea, Commissioner Bingham voting Yea, and Commissioner Summers voting Yea.

## **PUBLIC COMMENT**

### **Chairman Perry reviewed the guidelines for public comment.**

**DeAnna Hardy of Brigham City** stated the minutes failed to mention that the Box Elder Committee of Liberty presented two deceased individuals who received mail in ballots for the Primary Election. She said other areas are reporting the same issue. She said she requested not to receive a mail-in ballot but continues to receive it and she feels it is a waste of taxpayer money. She spoke about undeliverable ballots and said the solution to waste is to vote in person and stop mass mail in voting. She feels when you are voting in the home, a citizen is subject to intimidation, coercion, and bribery. She stated voting by mail is not a secret ballot. She asked why we are still doing this fraudulent voting system.

**Rich Garrett of Collinston** stated he represents a group of homeowners who are concerned with irresponsible dog owners. He explained there is a problem with barking dogs and explained methods they have taken to solve the problem with the dog owners. He said he does not like government interference, but they are seeking help. He said he has gathered thirty seven signatures from neighbors who feel it is a big issue.

**WARRANT REGISTER – COMMISSIONERS**

The Warrant Register was signed and the following claims were approved: Claim numbers 124156 through 124203 in the amount of \$951,806.19.

**PERSONNEL ACTIONS/VOLUNTEER ACTION FORMS – COMMISSIONERS**

<b>Employee Name:</b>	<b>Department:</b>	<b>PA Type:</b>	<b>Effective Date:</b>
BINGHAM, TORIA	ATTORNEY	VOLUNTEER	07/16/2024
HUGHES, AMBER	SHERIFF'S OFFICE	TRANSFER	07/15/2024
ANDERSON, JULIE	LANDFILL	NEW HIRE	06/17/2024
WHITLOCK, CARSON	LANDFILL	NEW HIRE	06/17/2024
COOPER, DIANA ATKINS	FAIRGROUNDS	VOLUNTEER	07/16/2024
Packer, William	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
LARSEN, HAROLD	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
PIRES, FRANCISCO	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
LAKE, DIANE	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
LARSEN, DeANN	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
LANDIS, AARON	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
BEACHY, CLAYTON	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
BUTIKOFER, TITUS	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
BEACHY, MORRIS	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
WENGER, TRAVIS	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
HEGE, VERNON	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
HELMUTH, BRENDA	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
YOUNGER, CHRISTEN	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
MARTIN, LYDIA	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
PACKER, RUTH	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
LAKE, ROBERT	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
CUTLER, RAYMOND	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024
CUTLER, LAURIE	SHERIFF'S OFFICE	VOLUNTEER	07/17/2024

**CLOSED SESSION**

There was not a closed session.

**ADJOURNMENT**

A motion was made by Commissioner Bingham to adjourn. Commissioner Summers seconded the motion, and the meeting adjourned at 12:03 p.m.

**ADOPTED AND APPROVED** in regular session this 1st day of August, 2024.

  
\_\_\_\_\_  
Lee Perry, Chairman

  
\_\_\_\_\_  
Boyd Bingham, Commissioner

  
\_\_\_\_\_  
Stan Summers, Commissioner

ATTEST:



  
\_\_\_\_\_  
Marla Young, County Clerk



## COUNTY COMMISSION MEETING

Commission Chambers, 01 South Main Street, Brigham City, Utah 84302

Wednesday, July 17, 2024 at 11:30 AM

### AGENDA

**NOTICE:** *Public notice is hereby given that the Box Elder County Board of County Commissioners will hold an Administrative/Operational Session commencing at 11:15 A.M. and a regular Commission Meeting commencing at 11:30 A.M. on Wednesday July 17, 2024 in the Commission Chambers of the Box Elder County Courthouse, 01 South Main Street, Brigham City, Utah.*

#### 1. ADMINISTRATIVE / OPERATIONAL SESSION

- A. Agenda Review / Supporting Documents
- B. Commissioners' Correspondence
- C. Staff Reports

#### 2. CALL TO ORDER 11:30 A.M.

- A. Invocation Given by: Chairman Perry
- B. Pledge of Allegiance Given by: HR Manager Jenica Stander
- C. Approve Minutes from the 9th of June 2024

#### 3. ADMINISTRATIVE REVIEW / REPORTS / FUTURE AGENDA ITEMS

#### 4. FORMER AGENDA ITEMS

#### 5. EMERGENCY MANAGEMENT ISSUES

#### 6. ARPA/LATCF

#### 7. BOX ELDER COUNTY EMPLOYEE RECOGNITION

#### 8. ATTORNEY'S OFFICE

- A. 11:40 Approval for ICAC Grant MOU #24-31-Madison Cordova
- B. 11:45 2025 Public Defenders Grant Agreement #24-32-Michael McGinnis

#### 9. COMMISSIONERS

- A. 11:50 Participation Agreement #24-33 in the Kroger National Opioid Settlement-Anne Hansen
- B. 11:54 August Commission Meeting Schedule Discussion-Commissioners

#### 10. COMMUNITY DEVELOPMENT

- A. 11:59 Beckam's Edge Subdivision Phase 4-Scott Lyons

#### 11. BUILDINGS & GROUNDS

- A. 12:02 Generator Bid Proposals-Codey Illum

#### 12. HUMAN RESOURCES

- A. 12:07 Policy 3 Update-Jenica Stander



2025

Memorandum of Understanding



Box Elder County Attorney's Office

# Table of Contents

(Funds)

THE ICAC TASK FORCE PROGRAM .....	2
MEMORANDUM OF UNDERSTANDING .....	3
MISSION STATEMENT .....	4
AFFILIATE REQUIREMENTS.....	5
ICAC AWARD.....	6
SUPERVISION.....	7
LIABILITY.....	7
REPORTING STATISTICS .....	7
TRAINING .....	8
CONFIDENTIALITY.....	9
OFFICER WELLNESS .....	9
EFFECTIVE DATE.....	10

## THE ICAC TASK FORCE PROGRAM

The Internet Crimes Against Children (ICAC) Task Force Program was developed in 1998 in response to the increasing number of children and teenagers using the internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking unsupervised contact with potential underage victims.

The Utah Attorney General's Office (AGO) ICAC Task Force was created in 2000 and is one of 61 ICAC task forces in the country. Because so many internet crimes against children cross state lines, the ICAC task forces work closely together (very unique compared to other police task forces). The 61 task forces are a coordinated national network, representing over 5,400 federal, state, and local law enforcement, dedicated to investigating, prosecuting, and developing effective responses to internet crimes against children.

## MEMORANDUM OF UNDERSTANDING

A Memorandum of Understanding (MOU) exists between the Utah Attorney General's ICAC Task Force and each of the law enforcement affiliate agencies, regardless of whether the agency receives a state affiliate award. The Utah ICAC Task Force provides funding received from various sources to law enforcement agencies to act as affiliates to the Utah ICAC Task Force. This MOU is between the Utah Attorney General's ICAC Task Force and the **Box Elder County Attorney's Office**, hereafter referred to as the "**Affiliate Agency**".

The purpose of the MOU is to formalize the working relationship between the **Affiliate Agency** and the Utah ICAC Task Force, and to delineate responsibilities and expectations of the relevant parties. By signing the MOU, an agreement is made between the **Affiliate Agency** and the Utah ICAC Task Force to vigorously and properly investigate crimes against children that occur by using the internet or other electronic media devices. By becoming an affiliate with the Utah ICAC Task Force, the **Affiliate Agency** will benefit from funding resources available to the AGO (MUST have applied), joint operations, forensic resources, officer wellness, and training opportunities. By entering into this MOU, the Utah ICAC Task Force will benefit from the investigative support from the **Affiliate Agency**.

## MISSION STATEMENT

The mission of the Utah ICAC Task Force is to protect children from those who use the internet to abuse or exploit children. The task force fights for children, rescues victims, educates everyone, and empowers survivors – #FREE.

The Utah ICAC Task Force:

1. Properly and aggressively investigates and prosecutes those who sexually exploit children using the internet.
2. Provides training and equipment to those involved in investigating and prosecuting ICAC cases.
3. Provides community education and awareness regarding the prevention of internet crimes against children.

## AFFILIATE REQUIREMENTS

Due in large part to the technological aspects of ICAC cases, the ICAC Task Force Program promotes a multi-jurisdictional, multi-agency team approach to investigating and prosecuting ICAC cases.

All ICAC investigations will be conducted only by sworn law enforcement investigators and in a spirit of cooperation with other Utah ICAC Task Force members. Investigations will follow guidelines established by each agency's respective policy manual or guidelines. In addition, ICAC investigations shall also be governed by the National ICAC program's Operational and Investigative Standards. The **Affiliate Agency** agrees to abide by the standards and protocols of the Utah ICAC Task Force and that investigators will attend and follow national and local ICAC training(s). Violation of the ICAC Operational and Investigative Standards and/or Utah ICAC Task Force Best Practices and Protocols is cause for termination of the signed MOU. The MOU is not intended to infringe on the ongoing investigation(s) of any other agency.

The **Affiliate Agency** agrees that only sworn peace officers, assigned as ICAC investigators, will conduct undercover ICAC investigations. Each investigator(s) involved with undercover operations shall receive ICAC training prior to initiating proactive investigations. This training can be received through ICAC nationally approved trainings and/or training programs through the Utah ICAC Task Force.

Every ICAC investigator must have access to the ICAC Share drive. The share drive contains search warrant templates, ICAC forms, best practice and protocol manual, and other items that are necessary for ICAC investigations.

## ICAC AWARD

Every police agency in Utah is responsible for enforcement and crime prevention activities relating to the sexual abuse and/or exploitation of children and should cooperate one with another in this mission, regardless of task force or other affiliations, or whether augmented funding is available to them.

ICAC funding is meant to augment individual agency budgets in their efforts to prevent and investigate internet crimes against children. ICAC funding is not meant to comprehensively cover the costs associated with traditional enforcement activities. Rather, the funds are intended to provide additional financial resources to help cover costs associated with overtime, training, outreach, and forensic tools, as examples.

The following are guidelines that task force members should use to determine how they will apply for awarded ICAC funding:

**The awarded funding is only to be used for the following purposes:**

- Over-time of ICAC investigator(s) who are actively working cases as defined in the ICAC National Standards and Utah ICAC Best Practices to accomplish the Mission Statement of the Utah ICAC Task Force.
- Training and travel costs associated with approved ICAC Training.
- Equipment and office supplies as they relate to ICAC case work.
- Software and internet lines as they relate to ICAC case work.
- Travel costs associated with ICAC case work.
- Public education presentations and applicable materials to aid in these presentations.

The Utah Attorney General's Office has awarded the **Affiliate Agency** a state contract of **\$10,000** *for the fiscal year of July 1, 2024, through June 30, 2025.*

## SUPERVISION

The **Affiliate Agency** will be responsible for the operational supervision, administrative control, and the personal and professional conduct of their ICAC investigator(s). ICAC investigations are a cooperative effort and investigative decisions will be a joint process guided by the Utah ICAC Best Practices and Protocol Manual and National Operational and Investigative Standards.

## LIABILITY

The **Affiliate Agency** is responsible and potentially liable for the acts and omissions of its own investigators or employees in connection with the performance of their official duties under the signed MOU. For tort liability purposes, no participating agency shall be considered the agent of other participating agencies. Each participating agency shall be potentially liable, if at all, only for the torts of its own investigators or employees that occur within the scope of their official duties.

## REPORTING STATISTICS

The assigned **Affiliate Agency** ICAC investigator(s) shall submit monthly statistics on all ICAC investigations and/or other investigative work pertaining to the sexual exploitation of a minor, possession/distribution/manufacture of child sexual abuse material (CSAM), criminal solicitation of a minor (enticement/traveler) and other related crimes as defined in the ICAC National Standards and Utah ICAC Best Practices and Protocols manual. These statistics shall be submitted into the ICAC Data System (IDS) by the 10<sup>th</sup> of each month. Failure to report agency statistics monthly is a violation of the Utah ICAC best practices, DOJ agreement and Utah ICAC MOU. Three (3) failures to report during a fiscal year will result in termination of the MOU and affiliate membership.



## TRAINING

The **Affiliate Agency** shall make their ICAC investigator(s), available for applicable specialized training provided through the National ICAC program, the Utah ICAC Task Force, and/or other approved training programs. If a training request is approved, the **Affiliate Agency** will pay the normal salary of its staff member(s) while they are attending the training. The **Affiliate Agency** shall ensure that its assigned ICAC investigator(s) complete the following training as designated by the Utah ICAC Task Force.

❖ **Recommended self-paced training courses:**

- **ICAC Program Overview:**  
<https://www.icactaskforce.org/training/TR10495109/an-icac-program-overview>
- **ICAC Standards:**  
<https://www.icactaskforce.org/training/TR10495107/icac-standards-1>
- **ICAC CyberTip Overview:**  
<https://www.icactaskforce.org/training/TR10495063/icac-cybertip-overview>
- **Legal Considerations in ICAC Investigations:**  
<https://www.icactaskforce.org/training/TR10495110/legal-considerations-in-icac-investigations>

❖ **Utah ICAC Bootstrap Academy:**

Every ICAC investigator shall attend and complete the three-day Bootstrap Academy. This training is designed to orient all investigators with ICAC cases. In the Bootstrap Academy, ICAC members will investigate real CyberTipline cases. This is a hands-on, interactive class where every investigator will draft and author electronic service provider (ESP) and/or internet service provider (ISP) search warrant(s). Investigators will leave the class with the tools needed to aggressively and efficiently investigate criminals who exploit children via the internet.

## CONFIDENTIALITY

It is understood that any confidential information pertaining to investigations of Internet Crimes Against Children will be held in the strictest confidence and will only be shared with participating ICAC Task Force members, ICAC affiliates and/or other law enforcement agencies where necessary or as otherwise permitted by federal and/or state law.

## OFFICER WELLNESS

Research shows that Officer Wellness Programs increase officer retention and recruitment, performance, empathy, and internal relationships, as well as decrease sick days, uses of force, citizen complaints, and officer suicide. Therefore, it is **mandated** that all members assigned to the Utah ICAC Task Force participate in a wellness program. Members assigned to full-time ICAC work are mandated, at minimum, to meet with a Mental Health Professional (MHP) monthly. Members assigned to part-time ICAC work are mandated, at minimum, to meet with a MHP quarterly. All members are required to complete an initial assessment and can meet with the MHP more than the minimum, if needed.

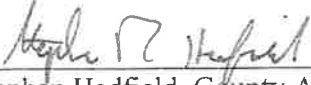
The member(s) assigned to the Utah ICAC Task Force can participate in an agency provided program. If an agency does not have a wellness program, members can participate in the Utah ICAC Task Force Wellness Program.

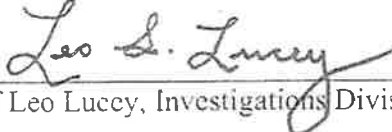
## EFFECTIVE DATE

This agreement shall be effective on the signing date and continue until the end of the state fiscal year or the agreement is canceled by either party upon written notice delivered to both the Utah Attorney General's Office and the **Affiliate Agency** within 30 days.

In the event of noncompliance with any of the terms of this agreement as outlined above or if either party terminates this agreement, state funds awarded (if any) to the **Affiliate Agency** that have not been spent will be suspended.

Entered this 17<sup>th</sup> day of July, 2024.

  
\_\_\_\_\_  
Stephen Hadfield, County Attorney, Box Elder County Attorney's Office

  
\_\_\_\_\_  
Chief Leo Lucey, Investigations Division, Utah Attorney General's Office

  
\_\_\_\_\_  
Sete Aulai, Section Chief, Utah ICAC Task Force Commander



## ATTACHMENT C: Quarterly Reporting Schedule and Requirements

### QUARTERLY REPORTING SCHEDULE AND REQUIREMENTS

Continuing funding and IDC quarterly grant reimbursements are contingent upon the system submitting complete reporting as outlined below. Instructions and links to the reporting documents will be emailed to project directors and managing defenders about three weeks before the reporting is due each quarter.

#### First Quarter - Due October 20<sup>th</sup>

- System Progress Narrative
- Quarterly Financial Report - Reimbursement Request (GMS)
- System Indigent Defense Service Provider Contracts Update

#### Second Quarter - Due January 20<sup>th</sup>

- System Needs Evaluation (This serves both as required reporting for the current grant and as part of next year's grant application)
- Attorney Caseload Surveys (This serves both as required reporting for the current grant and as part of next year's grant application)
- Quarterly Financial Report - Reimbursement Request (GMS)

#### Third Quarter - Due April 20<sup>th</sup>

- System Progress Narrative
- Quarterly Financial Report - Reimbursement Request (GMS)
- System Indigent Defense Service Provider Contracts Update

#### Fourth Quarter - Due July 15<sup>th</sup> (End of the state government fiscal year)

- System Needs Evaluation
- Attorney Caseload Surveys
- Quarterly Financial Report - Reimbursement Request (GMS)



## ATTACHMENT E: Summary of Key Indigent Defense Positions

The system's ability to meet the Core System Principles set forth in Attachment D requires a threshold structural and resource capacity—for example, adequate administrative resources and the ability to monitor attorney and system performance. Vital to this capacity is also the collection of reliable data about the services and quality of representation the system is providing (see Attachment C). The following key positions are critical to the system's ability to administer the IDC grant and to carry out obligations for providing effective indigent defense services under the grant agreement.

### **Project Director**

The system must have a Project Director in place for the duration of the IDC grant award. The Project Director is responsible for the administration, management, and oversight of the grant award on behalf of the system. The system may delegate all or some of the Project Director's duties to a Managing Defender, who may be either an employee or sub-grantee of the system.

### **Managing Defender**

The system receiving funding for a managing defender position must ensure that the following are included in the job duties of that position:

- Monitor contract attorneys to ensure they carry out their obligations in accordance with the contract provisions.
- Provide requested data and reports to the OIDS in a timely manner, including the bi-annual System Needs Evaluation, Attorney Caseload Survey, and financial reporting.
- Supervise and collaborate with grant-focused administrative assistant(s) to ensure that they are completing their duties, including applying case-weighting to achieve balance among attorney workloads.
- Educate contract attorneys on the principles of client-centered representation (*Managing Defender Manual*, p. 7) and encourage them to incorporate them into their practice.
- Mentor less experienced attorneys, including acting as a 2nd chair at trial when needed.

Additional information on the duties and responsibilities of a Managing Defender is available in the *Managing Defender Manual*.

### **Administrative Assistant**

The system receiving funding for a grant-focused administrative assistant position must ensure that the following are included in the job duties of the position:

- Coordinate and collaborate with the managing defender to work toward system improvement.
- Assist in financial oversight including monitoring monthly and annual spending to ensure compliance with system-side and grant budgets.
- Maintain statistics and compile reports, including caseload information for the managing public defender.
  - Help the managing defender and contracted attorneys utilize DefenderData or another case management software consistently.
  - Ensure data accuracy by opening and closing each case in the case management system or ensure that attorneys are doing so.
  - Using a case tracker or other case weighting system to help the managing defender achieve balanced workloads among attorneys.
- Assist with IDC grant applications, IDC reporting, and compliance with other grant requirements.



## SYSTEM INDIGENT DEFENSE BUDGET DETAIL AND PAYMENT STRUCTURE

Unless otherwise approved by the OIDS Executive Director, system expenses must be paid prior to reimbursement and should be reported for the period in which the expense was incurred. For expenses incurred during a period but paid after the quarterly fiscal report has been submitted, a supplemental financial status report may be required. Reimbursement is contingent upon the system meeting minimum required spending amounts for each expense category as outlined in the Quarterly Payment Structure. Reimbursement dates are dependent upon grantee reporting and are subject to change. Contact the Grant Program Manager for assistance.

### Fixed Quarterly Reimbursements

- The system must meet the minimum required system spending amount for the quarter before utilizing the grant reimbursed portion.
- Reimbursement requests should not exceed the quarterly grant amount budgeted for each line item. However, adjustments may be authorized by the OIDS Executive Director or Grant Program Manager as needed.
- Any costs exceeding the budgeted quarterly system spending and grant amount combined will be the system's responsibility and may count toward the system spending requirement for the following quarter.

### "As Billed" Reimbursements

- The system must meet the established system spending requirement for a line item before utilizing the grant reimbursed portion of that item.
- Any costs exceeding the annual system spending and grant amount combined will be the system's responsibility and will count toward system spending.

BOX ELDER INDIGENT DEFENSE BUDGET (July 1, 2024 - June 30, 2025)							
Expense Category	Expense Line Item	Total Cost	IDC Grant Award	System Spending	Expense Structure	Quarterly Grant Payment	Quarterly System Spending
Personnel		\$0.00	\$0.00	\$0.00	N/A		
Fringe		\$0.00	\$0.00	\$0.00	N/A		
Contracted	Managing Defender Services Pass-through to Cache*	\$98,700.00	\$30,000.00	\$68,700.00	Fixed	\$7,500.00	\$17,175.00
	Administrative Assistant	\$35,235.48	\$30,000.00	\$5,235.48	Fixed	\$7,500.00	\$1,308.87
	Primary Adult District Contract	\$90,000.00	\$49,524.00	\$40,476.00	Fixed	\$12,381.00	\$10,119.00
	Second Adult District Contract	\$90,000.00	\$0.00	\$90,000.00	Fixed	\$0.00	\$22,500.00
	Primary Juvenile & Parental Defense Contract	\$90,000.00	\$55,728.00	\$34,272.00	Fixed	\$13,932.00	\$8,568.00
	Parental and Delinquency Conflicts	\$110,000.00	\$2,148.00	\$107,852.00	Fixed	\$537.00	\$26,963.00
	Justice Court Defender	\$18,000.00	\$18,000.00	\$0.00	Fixed	\$4,500.00	\$0.00
	Child Welfare Social Worker shared w/ Cache**	\$0.00	\$0.00	\$0.00	N/A		
Equipment, Supplies, & Operating Expenses (E.S.O.)	Fixed E.S.O.	\$5,784.66	\$0.00	\$5,784.66	Fixed	\$0.00	\$1,446.17
	Other E.S.O.	\$0.00	\$0.00	\$0.00	N/A		
	Defense Resources & Reserves	\$25,000.00	\$0.00	\$25,000.00		As billed	
	Training & Related Travel	\$0.00	\$0.00	\$0.00	N/A		
	Indigent Defense Capital Fund	\$28,735.00	\$0.00	\$28,735.00		As billed	
Travel	Mileage	\$0.00	\$0.00	\$0.00	N/A		
<b>Totals:</b>		<b>\$591,455.14</b>	<b>\$185,400.00</b>	<b>\$406,055.14</b>			

\*Box Elder County pays Cache County for shared managing defender's services.

\*\* Cache County carries the contract but the social worker serves Box Elder County as well.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

### STANDARD TERMS

Terms and definitions as used in this grant agreement.

Authorized System Representative	A public official authorized to sign financial agreements for and on behalf of a local government entity, e.g. city mayor, city manager, county mayor, county manager, county council chair, county commission chair.
Award Recipient or Grantee	An indigent defense system receiving IDC grant funds.
Commission or IDC	Utah Indigent Defense Commission
Indigent Defense Resources	Resources necessary to provide an effective defense for an indigent individual, including but not limited to the costs for an investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.
Indigent Defense Service Provider	A court-appointed attorney or entity representing an indigent individual pursuant to (a) a contract with an indigent defense system to provide indigent defense services; or (b) an order issued by the court under Utah Code Subsection 78B-22-203(2)(a).
Indigent Defense Services	(a) The representation of an indigent individual by an indigent defense service provider; and (b) the provision of indigent defense resources for an indigent individual.
Indigent Defense System or System	(a) A city or town that is responsible for providing indigent defense, or (b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or (c) an interlocal entity, created pursuant to Utah Code 11-13, the Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.
Managing Defender	An indigent defense service provider with the role of coordinating attorneys, staff, and resources related to providing indigent defense services in a system or across multiple indigent defense systems.
OIDS or Office	Office of Indigent Defense Services, responsible for the Commission's administration and operations.
Project Director	An individual responsible for the administration, management, and oversight of the grant award on behalf of the indigent defense system receiving IDC grant funding. The Project Director has the ultimate responsibility for compliance with the terms of the grant agreement, Utah law, quarterly reports, invoices, and payment information. A grantee system may delegate all or some of the Project Director's duties to a Managing Defender.
State Entity	IDC, OIDS, or another state of Utah government agency.
Sub-grantee	Any entity or individual who is paid with IDC grant funds by the award recipient indigent defense system, such as contractor(s) for services.
System Spending	The portion of the grant recipient system's indigent defense budget and costs that are not reimbursable by the grant award.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

### ASSURANCES

1. **IDC AUTHORITY AND DUTIES:** The system assures it recognizes the Utah Indigent Defense Commission's powers and duties as authorized in Utah Code 78B-22-404, effective May 4, 2022, "to oversee individuals and entities involved in providing indigent defense services...and to assist the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code."
2. **SYSTEM FINANCIAL MANAGEMENT:** The system assures it possesses the responsibility, financial management, fiscal integrity, and financial capability necessary to administer IDC grant funds adequately and appropriately; that its financial management system can record and report on the receipt, obligation, and expenditure of grant funds; and that its financial management system is integrated with an adequate structure of internal controls to safeguard assets and cash management procedures. The system further assures that all IDC grant-related books, records, and accounts shall be maintained in accordance with all applicable regulations and standards and accurately reflect the true nature of the transactions they record in all material respects. The financial statements of the system shall conform in all material respects to generally accepted accounting principles and the system's accounting policies. While the Project Director has the ultimate responsibility for financial oversight and management of the IDC grant funding, some or all grant-related financial reporting and record keeping duties may be delegated to a sub-grantee, i.e. Managing Defender.
3. **SYSTEM INDIGENT DEFENSE BUDGET:** The system assures its system spending baseline indigent defense budget equals or exceeds the preceding three fiscal years' average annual system spending on indigent defense services; and that during the current fiscal year, the system reasonably anticipates maintaining indigent defense system spending, at the minimum, at the level set forth in the grant payment structure and grant award agreement.
4. **SUPPLANTING PROHIBITION:** The system assures IDC grant funds shall not supplant system spending on indigent defense services. This means that the system shall not deliberately reduce or reallocate to other purposes local indigent defense funds because of the existence of state funds. Rather, the IDC grant award must increase or supplement the total funding available for indigent defense services.
5. **SYSTEM RECORDS MANAGEMENT AND RETENTION:** The system assures is has a process to store and preserve relevant IDC grant-related programmatic documents and financial records according to the approved retention schedule (CCJ) Records Retention Series 28161, State Grant Program Files), and to allow the OIDS access to the system's programmatic documentation, financial records, written policies and procedures, audit compliance records, and internal controls for the purpose of ensuring grant funds are spent and disbursed efficiently as authorized by the Utah legislature and the Indigent Defense Commission.
6. **SYSTEM INDIGENT DEFENSE SERVICES MONITORING AND MANAGEMENT:** The system assures it is willing and able to monitor and manage attorney and system performance: Critical to this capacity is collecting, reviewing, and reporting quarterly to the OIDS reliable data and information about indigent defense services and the quality of representation the system is providing. While the Project Director has the ultimate responsibility for programmatic oversight, management, and reporting, some or all duties may be delegated to a sub-grantee, i.e. Managing Defender. To facilitate sufficient programmatic record keeping and reporting, the OIDS provides grantee systems or sub-grantees, when appropriate, with the DefenderData case management software and training for free.
7. **DEFENSE COUNSEL'S FREEDOM FROM CONFLICT:** The system assures that defense counsel, whether employed or contracted with by the system, are free to defend clients zealously, based on the counsels' own judgment, and without fear of termination, reduction in compensation, reduction in staff, or reduction in defense resources.
8. **DEFENSE FUNCTION'S INDEPENDENCE:** The system assures it is working diligently toward ensuring that the selection, funding, and payment of defense counsel and indigent defense services are independent of the judiciary and the prosecution.
9. **REPORTING REQUIREMENTS:** The system assures it will comply with the OIDS quarterly grant reporting schedule and requirements outlined in Attachment C. The system's officers, employees, and contractors must report honestly and accurately all business and legal transactions. Accurate record keeping and reporting are essential to the system's ability to meet legal and regulatory obligations, including specific obligations relating to the system's





## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

transactions with the Commission, OIDS, and other governmental entities. While the Project Director has the ultimate responsibility for compliance, some or all IDC grant-related programmatic and financial reporting and record keeping duties may be delegated to a sub-grantee, i.e. Managing Defender.

10. **COMPLIANCE WITH LAWS, RULES, POLICIES:** The system assures it will comply with its own written Accounting, Personnel, Purchasing, and Procurement rules and policies and procedures, excepting travel where the state of Utah per diem rates for reimbursements take precedence. If the system has not adopted such written policies and procedures, the state Accounting Policies and Procedures, state Purchasing Policies and Procedures, state Human Resources Rules, the Utah Administrative Code, and other applicable state policies and procedures are to be complied with in expending IDC grant funds.
11. **THIRD PARTY COOPERATION:** The system assures it will require all third-party contractors and sub-grantees to cooperate and participate with the OIDS in quarterly reporting, as well as in any investigations, audits, reviews, or monitoring activities of indigent defense services and IDC grant awards by OIDS or other governmental entities.
12. **THIRD-PARTY INDIGENT DEFENSE SERVICE CONTRACTS:** The system assures that it will have on file a current written contract for all indigent defense service providers engaged presently who are not directly employed by the system, and that it will provide copies of those contracts to OIDS. Furthermore, system assures it will keep OIDS abreast of any provider contract changes.
13. **SUB-GRANTEE ACCOUNTABILITY FOR COMPLIANCE:** The system assures sub-grantees shall be held accountable for complying with applicable Assurances, Certifications, and Conditions set forth in the system's grant agreement, through incorporating appropriate language into each agreement, contract, or other document under which IDC grant funds are to be expended by the sub-grantees. This is particularly vital should the system delegate some or all Project Director's duties and responsibilities to a sub-grantee, i.e. Managing Defender.
14. **MANDATORY CONTINUING LEGAL EDUCATION:** The system assures that its indigent defense service providers, whether employees or contractors, shall comply with the Utah State Bar mandatory continuing legal education requirements for maintaining licensure. OIDS strongly recommends that defenders attend a minimum of eight hours of specialized training in the area(s) of their practice annually. To facilitate specialization, OIDS provides free monthly CLEs to defenders in adult criminal defense, juvenile delinquency defense, and appellate advocacy.
15. **FUNDING FOR SYSTEM POSITIONS:** The system assures that IDC grant funds shall not be used to compensate its officers and employees unless they are employed at least part-time as indigent defense service providers or support staff in public defense.
16. **CASE MANAGEMENT SOFTWARE:** The system assures that its indigent defense providers, whether employees or contractors, will use case management software to manage their legal cases and clients, and to keep cases organized. To facilitate utilizing the DefenderData case management software, OIDS pays Justice Works directly for the cost of DefenderData licenses. Contingent upon funding availability, additional DefenderData licenses may be considered on an individual basis at the discretion of the OIDS Executive Director.

### CERTIFICATIONS

1. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND INELIGIBILITY:** The system certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Should the system be unable to certify the above statement in whole or in part, it shall submit a written explanation to the Commission. The system must notify OIDS in writing within thirty days if it is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by a governmental entity during the grant period covered in the grant agreement.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

2. **CERTIFICATION REGARDING DRUG-FREE WORKPLACE:** The system certifies that it will maintain a drug-free workplace, as required by the state of Utah rules and regulations regarding implementing the Drug-Free Workplace Act of 1988, 28 CFR Part 67, Subpart F, and the rules governing a drug-free workplace set forth in the Utah Administrative Rule 477-14-1 through 477-14-4.
3. **CERTIFICATION REGARDING COMPLIANCE WITH LAWS, RULES, AND REGULATIONS:** The system certifies that its officers, employees, and contractors should endeavor to deal honestly, ethically, and fairly with clients and other parties involved in the provision of indigent defense services, and that they shall comply with applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including professional licensure and certification requirements, while the IDC grant agreement is effective.

### CONDITIONS

#### I. GENERAL

- I.1. **FUNDING PRIORITIES:** IDC grant funding was awarded based on the following Priority Tier Levels: Tier 1 - Funding to renew existing indigent defense positions. Tier 2 - Funding for new managing defender or grant-focused administrative assistant positions that oversee at least three indigent defense service providers. Tier 3 - Funding for attorney capacity increases recommended based on the latest System Needs Evaluation results, and budget and spending trends. Tier 4 - Funding for other capacity increases recommended by OIDS or requested by the system and agreed upon through a collaborative process. Tier 5 - Funding for other requests.
- I.2. **AWARD AVAILABILITY AND OBLIGATION OF FUNDS:** The grant award is available during the grant period, which typically runs from the start of the state fiscal year on July 1st until the end of the state fiscal year on June 30th of the following calendar year. Grant funds may not be obligated prior to the effective date or after the termination date of the grant period. Obligations that are outstanding as of the termination date shall be liquidated within 30 days. Such obligations must be related to goods or services provided and utilized within the grant period.
- I.3. **NON-APPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** The IDC grant agreement may be terminated or the available grant funds may be reduced at the sole discretion of the Indigent Defense Commission if (i) a change in federal or state legislation or applicable laws materially affects the ability of either party to perform under the terms of the agreement; or (ii) a change in available funds affects the Commission's ability to pay under the agreement. In the event of termination or award modification, the Commission will provide a written notice to the system 30 days in advance of the specified termination or modification effective date.
- I.4. **INDEMNITY:** Both parties to the IDC grant agreement are governmental entities as defined in the Utah Governmental Immunity Act (Utah Code Ann. 63G-7-101 et. seq.). Nothing in this agreement shall be construed as a waiver by either or both parties of any rights, limits, protections, or defenses provided by the Act. Nor shall this agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this agreement is otherwise entitled. Subject to and consistent with the act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuit brought against it. There are no indemnity obligations between the parties.
- I.5. **REGIONALIZATION:** Systems that regionalize indigent defense services across two or more counties and/or cities must enter into a Memorandum of Understanding or similar written agreement. The MOU must be consistent with the intent and purpose of the IDC grant award and its terms and conditions, including the IDC Core System Principles, and with Utah law to ensure effective provision of indigent defense services in the pertinent systems, whether they are involved directly and indirectly in grant awards. A copy of the signed MOU must be submitted to OIDS.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

### II. USE OF THE AWARD

II.1. USE OF THE AWARD: IDC grant funds are to be expended only for the purposes and activities authorized by the Indigent Defense Commission in the budget detail set forth in Attachment A of the grant agreement. Upon a written request by the system, the Commission or OIDS Executive Director may authorize budget modifications to increase, decrease, or move grant funds from one budget category to another during the grant period as deemed appropriate.

#### II.2. APPROVED AWARD BUDGET CATEGORIES AND ACTIVITIES:

- a. Personnel Salaries: Wages or salaries paid to full-time and part-time personnel and officers employed by the system.
- b. Personnel Fringe Benefits: Non-wage allowances and services provided by the system to its full-time and part-time employees and officers in addition to their normal wages or salaries.
- c. Contracted Services: Costs of any person or entity obligated to provide indigent defense services, administrative services, or defense resource services to the system under a contract or agreement. Contractors are not considered to be employees or officers of the system. By definition, IDC grant-funded contractors are the grantee system's sub-grantees.
- d. Equipment, Supplies, Operating Expenses: Costs of these items may be approved on a case-by-case basis at the discretion of the Indigent Defense Commission or OIDS Executive Director.
- d. Defense Resources: Costs of indigent defense resources, such as investigators, experts, second chairs, court transcripts, and printing. Conflict counsel is typically not included in this budget category. Defense resource providers may or may not be considered to be the grantee system's sub-grantees. Upon a written request from the system, other defense resource costs may be approved by the Indigent Defense Commission or OIDS Executive Director.
- e. Mileage: Transportation costs incurred by system employees and contractors for travel related directly to representing indigent clients, such as client visits and court appearances. See the Mileage Reimbursement condition for details.
- f. Other: Subject to the limitation and approval of the Indigent Defense Commission, other expenses related to providing indigent defense services may be allowable and reimbursable by the IDC.

II.3. NONALLOWED EXPENDITURES: Award funds may not be used a) to pay for services or items that are not part of the approved grant budget, or separately approved by the Commission or OIDS Executive Director; b) to purchase land; or c) to pay for construction projects.

### III. PAYMENTS AND GRANT FUNDS

III.1. AWARD PAYMENTS: Based on the quarterly financial status report the system or sub-grantee submits in the state grant management system (GMS), OIDS will reimburse the system for approved indigent defense expenses in accordance with the award payment structure set forth in Attachment A of the IDC grant agreement. Payments can be adjusted to correct mistakes (e.g., overpayment, underpayment, or disallowed costs) that are found as a result of monitoring, review, inspection, or audit. Upon a written request in advance, the OIDS Executive Director may authorize exceptions to payment arrangements as deemed appropriate.

III.2. GRANT MODIFICATIONS: The system must obtain prior written approval from the Commission or OIDS Executive Director for grant award modifications. These include changes in (a) activities, designs, or objectives; (b) system Project Director or key professional personnel identified in the grant agreement; and (c) approved system indigent defense budget and budget categories.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

- III.3. **COSTS EXCEEDING SET LINE-ITEM GRANT BUDGET:** Should the costs for a grant-funded line item exceed the budgeted annual grant amount, the system shall be responsible for the excess spending, unless other arrangements are agreed in writing between the system and the Commission or OIDS Executive Director. Such arrangements may or may not require a grant modification.
- III.4. **UNUSED AWARD FUNDS:** Unless the IDC grant agreement is terminated prior to the expiration date, unexpended grant funds must be returned to OIDS within 30 days of the close of the state fiscal year when the grant period ends. Likewise, obligated but unused grant funds remain with the Indigent Defense Commission, and they shall not carry over to the next grant year.
- III.5. **NON-EXPENDABLE PERSONAL PROPERTY:** The system shall retain any nonexpendable personal property acquired with IDC grant funds for indigent defense purposes until the property is no longer needed or the purpose no longer exists, whether indigent defense services continue to be supported by state funds. When the time comes to dispose of the property, the system shall request disposition instructions from OIDS.

### IV. CORRECTIVE ACTION AND TERMINATION OF THE GRANT AGREEMENT

- IV.1. **DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR CAUSE:** Should the Indigent Defense Commission, OIDS, or another state entity determine that the system has materially breached any term or condition of the agreement; and that the system has not responded within 10 days to a written request to remedy the issue(s) or has not complied with a corrective action plan within 10 days, and therefore the default remains, the Commission and OIDS reserve the right to take one or more of the following actions:
- Withhold reimbursements temporarily.
  - Disallow all or part of the cost of grant activities.
  - Demand full refund of any payment made to the system under the agreement for services that do not conform to the agreement.
  - Suspend all or part of award activities.
  - Terminate the grant award immediately, prior to the agreement's expiration date.
  - Withhold or deny future funding.
  - Pursue other remedies legally available.

Time allowed for remedy or corrective action will not diminish or eliminate the system's liability for damages.

Likewise, should the Commission or OIDS materially breach any term or condition of the IDC grant agreement and fail to respond within 10 days to the system's written notification to correct and cease the violation(s), the system may terminate the agreement for cause immediately, prior to the expiration date.

Upon termination of the agreement by either party, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services ordered prior to the date of termination.

- IV.2. **TERMINATION FOR CONVENIENCE WITHOUT CAUSE:** The system or the Indigent Defense Commission may terminate the IDC grant agreement, in whole or in part, for convenience, without cause, at any time prior to the agreement expiration date by mutual agreement in writing. The party seeking termination must submit a written notice to the other party 30 days in advance of the specified expiration date.
- IV.3. **FORCE MAJEURE:** Neither party to the IDC grant agreement shall be held responsible for delay or default caused by fire, riot, acts of God, disease, state of emergency, executive order, war, or another event which is beyond the party's reasonable control. Either party may terminate the grant agreement after determining such delay will prevent successful performance of the agreement.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

IV.4. FINANCIAL OBLIGATIONS UPON TERMINATION: In the event the IDC grant agreement is terminated prior to the expiration date, whether for cause or for convenience, by either party, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services ordered prior to the date of termination. The system agrees that upon termination of the agreement, the system's sole remedy and monetary recovery from the Indigent Defense Commission or the state of Utah is limited to full payment for all services properly performed as authorized under the grant agreement up to the date of termination, as well as any reasonable monies owed as a result of the system having to terminate other contracts necessarily and appropriately entered into by the system pursuant to this agreement. Furthermore, the system must return any unexpended grant funds to the Commission within 30 days of the termination date.

### **V. EMPLOYMENT AND POSITIONS**

V.1. EMPLOYMENT DISCRIMINATION PROHIBITION: The system agrees to abide by the following employment laws:

- Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin.
- Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex.
- 45 CFR 90, which prohibits discrimination on the basis of age.
- Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities.
- Utah Executive Order dated December 13, 2006, which prohibits unlawful harassment in the workplace.

The system further agrees to abide by any other laws, regulations, or orders that prohibit discrimination of any kind by the system's officers, employees, or third-party contractors.

V.2. GRANT-FUNDED POSITIONS: Prior to posting a grant-funded position, the system or sub-grantee agrees to provide OIDS with a copy of the job description or request for proposal (RFP) for review.

V.3. ADDITIONAL PAY OR BENEFITS: The system agrees that its IDC grant-funded indigent defense services providers, whether employees or contractors, will not accept additional payments or other benefits outside of the amounts budgeted in the IDC grant agreement for representing court-appointed clients.

### **VI. GRANT MONITORING AND SYSTEM AUDIT**

VI.1. MONITORING, INSPECTION, AND AUDIT: The Indigent Defense Commission, OIDS, or another state entity duly authorized to monitor, inspect, or audit state funds shall have access to the system's and its sub-grantees' programmatic documentation, financial records, written policies and procedures, audit compliance records, and internal controls for the purpose of ensuring grant funds are spent and disbursed efficiently as authorized by the Utah legislature and the Indigent Defense Commission.

VI.2. AUDIT REPORTS: Should the system or sub-grantee(s) be a subject of a local, state, or federal audit, the system agrees to provide OIDS with a copy of the audit report.

### **VII. RECORDS RETENTION AND GRAMA**

VII.1. RECORDS RETENTION: In accordance with the Commission on Criminal and Juvenile Justice (CCJJ) Records Retention Series 28161, State Grant Program Files, the system shall retain IDC grant award programmatic and financial records seven years after final action. Such records may include but not be limited to grant proposals and applications; contracts and agreements; reports; invoices and receipts; proofs of payment; correspondence and memoranda; and other records relating to receipt, review, award, evaluation, status, and monitoring of grants; and allocation of funds and system indigent defense services budgets and spending.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

VII.2. GRAMA: Records relating to the receipt and disposition of IDC grant awards that are prepared, owned, or retained by the system, Indigent Defense Commission, or OIDS are subject to the state of Utah Government Records Access and Management Act (GRAMA). Such records may include but not be limited to grant proposals and applications; contracts and agreements; reports; invoices and receipts; proofs of payment; correspondence and memoranda; and other records relating to receipt, review, award, evaluation, status, and monitoring of grants; and allocation of funds and system indigent defense services budgets and spending. Therefore, unless restricted access to certain records is allowed by law, the public may request access to them. Neither the system nor state entities are obligated to report GRAMA requests.

### VIII. THIRD PARTY AGREEMENTS, OTHER DOCUMENTS, AND COPYRIGHT

VIII.1. THIRD PARTY AND SUB-GRANTEE CONTRACTS AND AGREEMENTS: The system may not enter into a contract or agreement with a third party or sub-grantee for the purpose of executing grant-related activities or providing indigent defense services unless such a contract or agreement is incorporated into the grant agreement or approved in advance by the Commission. Any such arrangement shall ensure that the system will retain ultimate control and responsibility for the IDC grant award, and that the system shall be bound by these grant conditions and any other requirements applicable to the award. Furthermore, the system shall provide OIDS with current copies of its indigent defense related third-party and sub-grantee contracts and agreements.

VIII.2. DESCRIPTION OF STATE FUNDING IN PUBLIC DOCUMENTS: Statements, press releases, requests for proposal, bid solicitations, and other documents describing IDC-grant-funded positions or programs publicized by the system must clearly state (a) the percentage of the total cost of the position or program that will be financed with the IDC grant award, and (b) the dollar amount of the grant funds for the position or program.

VIII.3. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS: As permitted by law, the system may copyright original intellectual property created in the course of IDC grant-funded activities, including computer programs (the term "computer programs" includes executable computer programs and supporting data in any form), writings, sound recordings, pictorial reproductions, drawings, or other graphical representations, and other works of similar nature. However, the Commission and OIDS reserve the right to reproduce, publish, and use in whole or in part such intellectual property and materials royalty-free and to authorize others to do so.

### IX. ADDITIONAL FUNDING POOLS

Outside of the regular grants, the Utah Indigent Defense Commission has additional funding pools that can be utilized by systems in the 3<sup>rd</sup> - 6<sup>th</sup> class counties for travel and defense resources reimbursements. Reimbursements are contingent upon the availability of funding, and requests are approved on a case-by-case basis at the discretion of the OIDS Executive Director.

*Costs that are reimbursed from these funding pools should NOT be included in the regular quarterly grant financial reports or reimbursement worksheets uploaded to the GMS to avoid duplication of payments.*

IX.1. MILEAGE REIMBURSEMENT: A system in the 3<sup>rd</sup> - 6<sup>th</sup> class counties may request reimbursement from OIDS for an employee's or contractor's round trip(s) of 50 or more miles that are directly related to representing indigent clients when the following conditions are met:

- a. A system must have a current, signed IDC grant agreement, although it is not required that the system is a grant recipient. In addition, based on its fiscal year, the system must deplete its annual mileage budget (if any) before applying for reimbursement by OIDS.
- b. The state of Utah higher mileage reimbursement rate in effect at the time of travel will be used to calculate the OIDS reimbursement amount. The system is responsible for mileage costs that either exceed the state rate or are ineligible for OIDS reimbursement.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

- c. The traveler must track actual miles traveled from the traveler's home or regular place of business to the destination using the IDC Mileage Tracking Form. A Google map or a similar document of the route, showing the distance in miles, must be included as supporting documentation. The traveler must submit the Mileage Tracking form and supporting documentation to the system with the monthly or quarterly invoice.
- d. System can request mileage reimbursement by sending a completed IDC Defense Resources and Mileage Reimbursement Request Form, route map(s), copies of invoices for the mileage, and proofs of payment to IDC@utah.gov within 20 days of the end of the month or quarter in which the travel occurred.
- e. OIDS mileage reimbursement is contingent upon availability of funds. Reimbursement is not available for travel that takes place before the grant agreement effective date or after the grant agreement expiration date.
- f. Forms are found on the IDC Project Director Resources page at <https://idc.utah.gov/grants/grant-management-system>
- g. Exceptions to these conditions and requirements may be approved on a case-by-case basis by the OIDS Executive Director or the Indigent Defense Commission as deemed appropriate.

IX.2. LODGING REIMBURSEMENT: A system in the 3rd - 6th class counties may request reimbursement from OIDS for its employees' or contractors' lodging expenses (i.e. hotel room and applicable taxes and fees) in destinations that are 50 or more miles from the traveler's home or regular office bases during overnight trips that are related directly to representing indigent clients when the following conditions are met:

- a. A system must have a current, signed IDC grant agreement, although it is not required that the system is a grant recipient.
- b. The traveler must request the system's Managing Defender's approval for lodging in writing prior to travel and provide a brief description of why an overnight hotel stay is in the best interest of the system. For example, if an attorney is required to work at the travel destination after normal working hours or early the next day, or when weather or other safety issues exist, lodging may be appropriate.
- c. The system's Managing Defender may use discretion to authorize reimbursement for lodging if it is determined that lodging is reasonable and in the best interest of the system. The Managing Defender must approve the lodging request in writing prior to travel.
- d. The state of Utah lodging per diem rates in effect at the time of travel will be used to calculate the OIDS reimbursement amount. The system is responsible for lodging costs that either exceed the state per diem rates or are ineligible for OIDS reimbursement.
- e. The traveler must submit itemized invoices for lodging costs to the system with the regular monthly or quarterly invoices.
- f. System can request lodging costs reimbursement by sending a completed IDC Defense Resources and Mileage Reimbursement Request Form, along with a copy of the written approval, copy of the itemized hotel invoice, and proof of payment to IDC@utah.gov within 20 days of the end of the month or quarter in which the travel occurred.
- g. IDC lodging reimbursement is contingent upon the availability of funds. Reimbursement is not available for travel that takes place before the grant agreement's effective date or after the grant agreement's expiration date.
- h. Forms are found on the IDC Project Director Resources page at <https://idc.utah.gov/grants/grant-management-system>
- i. Exceptions to these conditions and requirements may be approved on a case-by-case basis by the OIDS Executive Director or the Indigent Defense Commission as deemed appropriate.



## ATTACHMENT B: Standard Terms, Assurances, Certifications, and Conditions

IX.3. DEFENSE RESOURCES REIMBURSEMENT: OIDS may reimburse the actual costs paid by a system in a county of the 3rd through 6th class for the following defense resources: investigators, experts, evaluations, translation services, transcripts, and second chair. Other legal expenses may be approved as eligible defense resources at the discretion of the OIDS Executive Director. The following conditions apply:

- a. A system must have a current, signed IDC grant agreement, although it is not required that the system is a grant recipient. In addition, based on its fiscal year, the system must deplete its annual defense resources budget before applying for reimbursement from OIDS.
- b. The system can make a request by sending a completed IDC Defense Resources and Mileage Reimbursement Request Form, copy of the invoice for the expense and proof of payment to [IDC@utah.gov](mailto:IDC@utah.gov) within 20 days of the end of the month or quarter in which the resource was utilized.
- c. A single defense resource expense of \$500 or more requires written pre-authorization from the OIDS Executive Director and the system, using the IDC Defense Resource Overage Pre-Authorization form.
- d. Reimbursements are contingent upon the availability of funding. Reimbursements are not available for resources utilized or purchased before the grant agreement's start date or after the grant agreement's expiration date.
- e. Forms are found on the IDC Project Director Resources page at <https://idc.utah.gov/grants/grant-management-system>
- f. Exceptions to these conditions and requirements may be approved on a case-by-case basis by the OIDS Executive Director or the Indigent Defense Commission as deemed appropriate.





## ATTACHMENT D: Core System Principles for Indigent Defense Services

### USER STATEMENT

This document, adopted by the Utah Indigent Defense Commission in August 2017, sets forth core principles for the provision of indigent defense representation in the state of Utah.<sup>1</sup> These principles are intended to encompass the provision of indigent defense services in three defined areas of practice: criminal defense, delinquency defense, and parental defense. Utah law delegates the provision of indigent defense services to its local governments.<sup>2</sup>

The purpose of these principles is threefold:

1. Provide guidance to government officials, policymakers, and entities charged with providing, overseeing, assessing, and/or funding indigent defense systems.
2. Provide a yardstick for measuring the extent to which an indigent defense system ensures that individual attorneys within that system have the knowledge, ability, resources, and independence necessary to provide effective representation.
3. Encourage appointed counsel to provide a high standard of representation and promote professionalism in the representation of indigent individuals in Utah.

### THE UTAH INDIGENT DEFENSE COMMISSION

The Utah Indigent Defense Commission was created by legislation in 2016 to help the state ensure its indigent defense services are consistent with the United States and Utah Constitutions, and Utah law. Its membership includes key leaders in state and local government, criminal defense, and indigent defense services. The Commission works with the state, local governments, indigent defense providers, and other stakeholders to provide guidance on standards for constitutional representation, gather data and information about indigent defense service provision, award grants to improve indigent defense services, and support the regionalization of indigent defense services throughout the state.

---

<sup>1</sup>The Utah Indigent Defense Commission is mandated to "adopt minimum guidelines for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code." Indigent Defense Act, Utah Code § 78B-22-404(1)(a).

<sup>2</sup>"Indigent Defense System" or "system" refers to the local government entity that is responsible for providing indigent defense services in its respective state, county, or city courts; and the term includes counties, cities, towns, and any "interlocal entity . . . responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town." Indigent Defense Act, § 78B-22-102(7).



## ATTACHMENT D: Core System Principles for Indigent Defense Services

### PRINCIPLE 1/ ORGANIZATIONAL CAPACITY OF DEFENSE SYSTEM IS SUFFICIENT TO ENSURE COMPLIANCE WITH CORE PRINCIPLES

A system's ability to meet the principles articulated herein requires a threshold structural and resource capacity—for example, an adequate budget, administrative resources, and the ability to monitor attorney and system performance. Critical to this capacity is the collection and regular review of reliable data and information about the services and quality of representation the system is providing.<sup>3</sup> If an indigent defense system lacks such capacity, efforts must be made to improve the system's organization—for example, through adopting a managed assigned counsel (MAC) system, public defender office, and/or through pursuing interlocal, resource-sharing agreements.

### PRINCIPLE 2/ SYSTEM PROVIDES COUNSEL TO ALL ELIGIBLE DEFENDANTS, MINORS, AND RESPONDENTS WHO DO NOT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WAIVE COUNSEL

Rights. The U.S. Constitution, the Utah Constitution, and Utah law guarantee the right to counsel. That right extends under Utah law to all accused persons facing any possibility of incarceration or detention,<sup>4</sup> and to parents/legal guardians subject to child welfare proceedings and/or petitions to terminate their parental rights,<sup>5</sup> regardless of financial status.

Responsibilities. Systems must ensure individuals facing these proceedings, who are unable to afford counsel, are provided counsel at government expense.<sup>6</sup> Systems must also ensure the presence of defense counsel at all court proceedings, to avoid creating practical barriers to appointment or any pressure to waive counsel.

Restrictions. If a system seeks to recover/recoup public defender fees, it must strictly adhere to the statutory limitations and processes, to avoid undermining the right to counsel.<sup>7</sup> A system

<sup>3</sup> Indigent Defense Act, §78B-22-404(1)(c). The commission shall, "identify and collect data from any source, which is necessary for the commission to: (i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and (ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state."

<sup>4</sup> Indigent Defense Act, § 78B-22-102(8) (defining a minor who is "arrested and admitted into detention" or who is "charged by petition or information in the juvenile or district court" as indigent for the entitlement to court-appointed counsel), 78B-22-201 (explaining the other individuals who are entitled to the right to counsel)

<sup>5</sup> Indigent Defense Act, § 78B-22-201(1)(b)(parent and legal guardians have the right to counsel in abuse, neglect, or dependency proceedings; termination of parental rights; adult offenses; or proceedings listed in § 78B-6-112).

<sup>6</sup> Indigent Defense Act, §§ 78B-22-102(7) (requiring cities, towns, and counties to provide indigent defense services), and 78B-22-202(2), 78B-22-203(1) (requiring a court to determine indigency, and upon finding indigency, to appoint an indigent defense service provider under contract with a system to represent indigent individuals).

<sup>7</sup> Recoupment of public defender fees is permissible with limitations. Such fees cannot be combined with a plea agreement and must only happen post-conviction after a court makes an independent "ability to pay" determination.



## ATTACHMENT D: Core System Principles for Indigent Defense Services

may not, for example, assess fees without individualized assessments for each convicted individual, as statute requires the court to consider financial resources and the burden any fee will cause before imposing it. Systems reinvest any recouped funding in indigent defense services.

### PRINCIPLE 3/ SYSTEM PROVIDES PROPER SCOPE OF REPRESENTATION

#### ● *Principle 3A/ Scope of Representation: Attorney Activity*

Effective representation requires attorney activity that meaningfully addresses the allegations facing each client. Accordingly, indigent defense systems shall ensure that attorneys are regularly engaged in a scope of practice wherein the attorney will:

- Develop a theory of the case that guides the case strategy.
- Pursue available evidence through discovery and investigation.
- Examine and review all available evidence.
- File appropriate motions.
- Advise the client on the strengths and weaknesses of the state's case and on all implications of a plea offer, including direct and collateral consequences of accepting the plea offer.
- Litigate or adjudicate the allegations, unless a plea offer is consistent with the client's expressed wishes and represents a benefit to the client.
- Use investigative and other defense resources, as appropriate.

#### ● *Principle 3B/ Scope of Representation: Stages of the Proceedings*

Early Appointment. Systems must ensure that as soon as feasible, defense counsel is assigned and notified of appointment, and indigent individuals are notified of the identity of assigned counsel and how to contact counsel.<sup>8</sup>

Continuity. Systems must ensure an indigent individual has access to counsel at all critical stages of criminal proceedings,<sup>9</sup> and in delinquency and child welfare proceedings that

Utah Code §77-32a-108 ("The court may not include in the judgment a sentence that a defendant pay costs unless the defendant is or will be able to pay them. In determining the amount of costs, the court shall take into account the financial resources of the defendant, the nature of the burden that payment of costs will impose, and that restitution is the first priority."); *Fuller v. Oregon*, 417 U.S. 40, 45 (1974).

<sup>8</sup> Utah R. Prof. Conduct. 1.4 (Communication).

<sup>9</sup> A critical stage is "every stage of a criminal proceeding where substantial rights of a criminal accused may be affected." *Mempa v. Rhay*, 389 U.S. 128, 134 (1967). The right attaches when "formal judicial proceedings have begun." *Rothgery v. Gillespie County*, 554 U.S. 191, 212 (2008).



## ATTACHMENT D: Core System Principles for Indigent Defense Services

indigent individuals have counsel to represent them at all stages of the juvenile court proceedings.<sup>10</sup>

Consistency. Systems must ensure representation commences in a timely manner, extends for the proper period of representation, and proceeds with reasonable continuity, unless the client's needs dictate otherwise—meaning the same attorney must continuously represent a client, where feasible, until a case concludes.<sup>11</sup>

### **PRINCIPLE 4/ SYSTEM PROVIDES REPRESENTATION THAT IS INDEPENDENT AND FREE FROM INTERFERENCE**

Indigent defense counsel's primary and most fundamental responsibility is to promote and protect the interests of the client. A system must ensure defense counsel is free to defend clients zealously, based on counsel's own judgement, and without fear of termination, reduction in compensation, reduction in staff, or reduction in defense resources.<sup>12</sup> The selection, funding, and payment of defense counsel should be independent of the judiciary and the prosecution.<sup>13</sup>

### **PRINCIPLE 5/ SYSTEM RECOGNIZES DISTINCT AREAS OF SPECIALIZATION WITHIN INDIGENT DEFENSE**

Indigent defense encompasses distinct areas of practice: criminal defense, delinquency defense, parental defense, and appellate advocacy.<sup>14</sup> Each is its own area of specialization, requiring skills and knowledge distinct from what is required to practice in any other area.

Indigent defense systems must separately account for criminal defense, delinquency defense, parental defense, and appellate advocacy in their employment and contracting arrangements.<sup>15</sup>

<sup>10</sup> Minors are entitled to appointed counsel. Indigent Defense Act, §§ 78B-22-102(8)(a), 78B-22-203(1)(a). Once appointed, providers "shall provide indigent defense services for the indigent individual *in all court proceedings* in the matter for which the indigent defense service provider is appointed." §§ 78B-22-203(1)(a), 78B-22-202(1)(b).

<sup>11</sup> System should ensure defense counsel does not withdraw from representation inappropriately, as defense counsel is required at probation revocation hearings. *Mempha*, 389 U.S. at 137.

<sup>12</sup> Indigent Defense Act, § 78B-22-404(1)(a)(ii)(A) (systems must ensure providers have "the ability to exercise independent judgment without fear of retaliation and [are] free to represent an indigent individual based on the indigent defense service provider's own independent judgment").

<sup>13</sup> The "independence of counsel" is "constitutionally protected." *Strickland v. Washington*, 466 U.S. 668, 689 (1984).

<sup>14</sup> Indigent Defense Act, § 78B-22-201(1) (outlining the right to counsel in these four practice areas).

<sup>15</sup> Indigent Defense Act, § 78B-22-404(1)(a)(i)(B) (systems must ensure "a separate contract for each type of indigent defense service").



## ATTACHMENT D: Core System Principles for Indigent Defense Services

### PRINCIPLE 6/ SYSTEM ENSURES THE RIGHT TO APPEAL

Indigent defense systems must provide counsel for any first appeal of right,<sup>16</sup> and must separately account for the provision of appellate services to ensure the right to appeal.

### PRINCIPLE 7/ SYSTEM PROVIDES REPRESENTATION THAT IS FREE FROM CONFLICTS OF INTEREST

Effective representation is representation that is zealous, diligent, and free from conflicts of interest—as defined in the Utah Rules of Professional Conduct.<sup>17</sup> Indigent defense systems shall ensure that defense counsel manages conflicts of interest issues as required by the Utah Rules of Professional Conduct.<sup>18</sup>

Systems shall provide appropriate employment and separate arrangements to account for conflict cases.<sup>19</sup> Those arrangements shall not create for defense counsel a financial disincentive to declare a conflict.<sup>20</sup>

### PRINCIPLE 8/ SYSTEM PROVIDES EFFECTIVE REPRESENTATION

Effective representation depends upon the zealous advocacy of qualified counsel, who receives training, has appropriate caseloads, has access to defense resources, and is properly compensated.

- *Principle 8A/ Qualifications and Training*

Indigent defense systems must ensure defense counsel's ability, training, and experience

<sup>16</sup> Indigent Defense Act, §§ 78B-22-201(1)(c), 78B-22-203(1)(a); *Douglas v. California*, 372 U.S. 353 (1963) (explaining that individuals who are “appealing a first appeal from a conviction or other final court action” have the right to counsel throughout the proceedings, and if such individuals are indigent, counsel will be appointed for them).

<sup>17</sup> Indigent Defense Act, § 78B-22-404(1)(a)(i)(A) (systems must ensure indigent individuals receive zealous and conflict-free indigent defense services); Utah R. Prof. Conduct. 1.1 (Competence), 1.2 (Allocation of Authority Between Client and Lawyer), 1.3 (Diligence), 1.4 (Communication), 1.6 (Confidentiality of information), 1.7 & 1.8 (Conflicts of Interest), 1.9 (Duties to Former Clients), 1.10 (Imputation of Conflicts of Interest), 1.14 (Client with Diminished Capacity), 1.15 (Safekeeping property), 1.16 (Declining or terminating representation), 1.18 (Duties to Prospective Client), 6.2 (Accepting Appointments).

<sup>18</sup> Indigent Defense Act, § 78B-22-404(1)(a)(ii)(H) (systems must ensure indigent service providers have “the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest”).

<sup>19</sup> Indigent Defense Act, § 78B-22-404(1)(a)(i)(A) (systems must ensure an indigent individual receives conflict-free indigent defense services), Utah R. Prof. Conduct 1.7 through 1.10.

<sup>20</sup> Indigent Defense Act, § 78B-22-404(1)(a)(ii)(E) (systems must provide indigent defense providers with “adequate compensation without financial disincentives”).



## ATTACHMENT D: Core System Principles for Indigent Defense Services

match the complexity of the case.<sup>21</sup> Systems must require counsel to receive continuing legal education in the areas indigent defense representation in which they practice.<sup>22</sup>

- ***Principle 8B/ Appropriate Caseloads***

Indigent defense systems must control defense counsel's total workload (including private and indigent caseloads in other jurisdictions) to allow for effective representation of each client. Total caseload must be set at a level that allows defense counsel to undertake the scope of work required to test the state's evidence in a meaningful way in each case.<sup>23</sup>

- ***Principle 8C/ Access to Defense Resources***

Indigent defense systems must equip defense counsel with the tools necessary to provide effective representation, by providing access to defense resources, which may include "costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs,"<sup>24</sup> social workers, interpreters, and forensic services.

Systems must avoid conflicts or disincentives for defense counsel—for example, flat rate contracts where counsel pays for services from their compensation, or procedures requiring defense counsel to reveal a request for resources to prosecutors.

- ***Principle 8D/ Proper Compensation***

Indigent defense systems must adopt appropriate rates and methodologies of compensation, sufficient to attract qualified applicants and to incentivize effective representation, which take into account the time, work, and complexity required to provide effective representation.

Indigent defense systems must avoid employment or contracting arrangements that create disincentives for effective representation—for example, flat fee contracts that provide no limit on the cases defense counsel will be assigned.<sup>25</sup> Systems must provide counsel with the ability to seek additional compensation for extraordinary cases, or additional attorneys when caseloads are too high.

<sup>21</sup> Indigent Defense Act, § 78B-22-404(i)(a)(ii)(F) (systems must ensure providers have "appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals").

<sup>22</sup> Indigent Defense Act § 78B-22-404(i)(a)(ii)(G) (systems must ensure compensate providers "for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals").

<sup>23</sup> Indigent Defense Act, § 78B-22-404(i)(a)(ii)(D) (systems must ensure all providers have "a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client").

<sup>24</sup> Indigent Defense Act, §§ 78B-22-102(4) & 78B-22-404(i)(a)(ii)(B).

<sup>25</sup> Indigent Defense Act, § 78B-22-404(i)(a)(ii)(E) (systems must provide indigent defense providers with "adequate compensation without financial disincentives").



ATTACHMENT A: System Indigent Defense Budget Detail and Payment Structure

**SYSTEM INDIGENT DEFENSE BUDGET DETAIL AND PAYMENT STRUCTURE**

Unless otherwise approved by the OIDS Executive Director, system expenses must be paid prior to reimbursement and should be reported for the period in which the expense was incurred. For expenses incurred during a period but paid after the quarterly fiscal report has been submitted, a supplemental financial status report may be required. Reimbursement is contingent upon the system meeting minimum required spending amounts for each expense category as outlined in the Quarterly Payment Structure. Reimbursement dates are dependent upon grantee reporting and are subject to change. Contact the Grant Program Manager for assistance.

**Fixed Quarterly Reimbursements**

- The system must meet the minimum required system spending amount for the quarter before utilizing the grant reimbursed portion.
- Reimbursement requests should not exceed the quarterly grant amount budgeted for each line item. However, adjustments may be authorized by the OIDS Executive Director or Grant Program Manager as needed.
- Any costs exceeding the budgeted quarterly system spending and grant amount combined will be the system’s responsibility and may count toward the system spending requirement for the following quarter.

**“As Billed” Reimbursements**

- The system must meet the established system spending requirement for a line item before utilizing the grant reimbursed portion of that item.
- Any costs exceeding the annual system spending and grant amount combined will be the system’s responsibility and will count toward system spending.

BOX ELDER INDIGENT DEFENSE BUDGET								
(July 1, 2024 - June 30, 2025)								
Expense Category	Expense Line Item	Total Cost	IDC Grant Award	System Spending	Expense Structure	Quarterly Grant Payment	Quarterly System Spending	
Personnel		\$0.00	\$0.00	\$0.00	N/A			
Fringe		\$0.00	\$0.00	\$0.00	N/A			
Contracted	Managing Defender Services Pass-through to Cache*	\$98,700.00	\$30,000.00	\$68,700.00	Fixed	\$7,500.00	\$17,175.00	
	Administrative Assistant	\$35,235.48	\$30,000.00	\$5,235.48	Fixed	\$7,500.00	\$1,308.87	
	Primary Adult District Contract	\$90,000.00	\$49,524.00	\$40,476.00	Fixed	\$12,381.00	\$10,119.00	
	Second Adult District Contract	\$90,000.00	\$0.00	\$90,000.00	Fixed	\$0.00	\$22,500.00	
	Primary Juvenile & Parental Defense Contract	\$90,000.00	\$55,728.00	\$34,272.00	Fixed	\$13,932.00	\$8,568.00	
	Parental and Delinquency Conflicts	\$110,000.00	\$2,148.00	\$107,852.00	Fixed	\$537.00	\$26,963.00	
	Justice Court Defender	\$18,000.00	\$18,000.00	\$0.00	Fixed	\$4,500.00	\$0.00	
	Child Welfare Social Worker shared w/ Cache**	\$0.00	\$0.00	\$0.00	N/A			
Equipment, Supplies, & Operating Expenses (E.S.O.)	Fixed E.S.O.	\$5,784.66	\$0.00	\$5,784.66	Fixed	\$0.00	\$1,446.17	
	Other E.S.O.	\$0.00	\$0.00	\$0.00	N/A			
	Defense Resources & Reserves	\$25,000.00	\$0.00	\$25,000.00			As billed	
	Training & Related Travel	\$0.00	\$0.00	\$0.00	N/A			
	Indigent Defense Capital Fund	\$28,735.00	\$0.00	\$28,735.00			As billed	
Travel	Mileage	\$0.00	\$0.00	\$0.00	N/A			
<b>Totals:</b>		<b>\$591,455.14</b>	<b>\$185,400.00</b>	<b>\$406,055.14</b>				

\*Box Elder County pays Cache County for shared managing defender’s services.

\*\* Cache County carries the contract but the social worker serves Box Elder County as well.



GRANT AGREEMENT SIGNATURE PAGE

CONTACT INFO

System: Box Elder County Grant No. 25D16 Period: 7/1/24 -6/30/25
Check Mailing Address: 1 S Main City: Brigham City Zip: 84302
Project Dir.: Michael McGinnis Email: michael.mcginis@cachecounty.org Phone: (435) 535-6661
Managing Def: same Email: same Phone: (435) 535-6661

GRANT AWARD AND SYSTEM INDIGENT DEFENSE BUDGET SUMMARY

Table with 3 columns: Expenditure Line Item, Award Budget, System Budget. Rows include Personnel Salaries, Personnel Fringe Benefits, Contracted Services, Equipment, Supplies, Operating Expenses (ESO), Defense Resources, Other (Training and Related Travel, etc.), Mileage, and totals for Award and System Budget.

SIGNATURES

Through the Indigent Defense Commission, the state of Utah offers this grant award and agrees to pay the total award amount contingent upon the recipient system meeting the requirements described in this agreement.

IDS Exec. Dir. Name: Matthew Barraza Signature: [Signature] Date: 06/07/2024

The project director's initials by each attachment certify that (s)he has read and understood the grant award requirements set forth in these documents, and that (s)he agrees to abide by them.

Table with 2 columns listing attachments: Attachment A: Budget Detail and Payment Structure, Attachment B: Terms, Assurances, and Conditions, Attachment C: Quarterly Reporting Schedule and Requirements, Attachment D: Core System Principles, Attachment E: Key System Positions, Attachment F: Social Worker Agreement (if applicable).

The system accepts the IDC grant award and agrees to meet the requirements and abide by the provisions described in this agreement.

Project Director Signature: Michael C. McGinnis Date: 07-11-2024
Authorized System Representative Name: [Signature] Title: Commission Chair
Authorized System Representative Signature: [Signature] Date:
Managing Defender Signature: [Signature] Date: 07-11-2024



New National Opioids Settlement: Kroger  
Opioids Implementation Administrator  
[opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com)

Box Elder County, UT  
Reference Number: CL-798564

***TO LOCAL POLITICAL SUBDIVISIONS:***

**THIS PACKAGE CONTAINS DOCUMENTATION TO PARTICIPATE IN THE NEW NATIONAL OPIOIDS SETTLEMENT. YOU MUST TAKE ACTION IN ORDER TO PARTICIPATE.**

***Deadline: August 12, 2024***

A new proposed national opioids settlement ("*New National Opioids Settlement*") has been reached with Kroger ("*Settling Defendant*"). This *Participation Package* is a follow-up communication to the *Notice of National Opioids Settlement* recently received electronically by your subdivision.

You are receiving this *Participation Package* because the State of Utah is participating in the Kroger settlement. Your town, city, or county previously participated in settlements with pharmaceutical manufacturers, distributors, and pharmacy chains.

This electronic envelope contains:

- The *Participation Form* for the Kroger settlement, including a release of any claims.

**The *Participation Form* must be executed, without alteration, and submitted on or before August 12, 2024, in order for your subdivision to be considered for initial participation calculations and payment eligibility.**

Based upon subdivision participation forms received on or before August 12, 2024, the subdivision participation rate will be used to determine whether participation is sufficient for the settlement to move forward and whether a state earns its maximum potential payment under the settlement. If the settlement moves forward, your release will become effective. If a settlement does not move forward, that release will not become effective.

Any subdivision that does not participate cannot directly share in the settlement funds, even if the subdivision's state is settling and other participating subdivisions are sharing in settlement funds. Any subdivision that does not participate may also reduce the amount of money for programs to remediate the opioid crisis in its state. Please note, a subdivision will not necessarily directly receive settlement funds by participating; decisions on how settlement funds will be allocated within a state are subject to intrastate agreements or state statutes.

You are encouraged to discuss the terms and benefits of the *New National Opioids Settlement* with your counsel, your Attorney General's Office, and other contacts within your state. Many states are implementing and allocating funds for this new settlement the same as they did for the prior opioids settlements with McKesson, Cardinal, Cencora (formerly AmerisourceBergen), J&J/Janssen, Teva, Allergan, CVS, Walgreens, and Walmart but states may choose to treat this settlement differently.

Information and documents regarding the *New National Opioids Settlement* and how it is being implemented in your state and how funds will be allocated within your state can be found on the national settlement website at <https://nationalopioidsettlement.com/>. This website will be supplemented as additional documents are created.

### **How to return signed forms:**

There are three methods for returning the executed *Participation Form* and any supporting documentation to the Implementation Administrator:

- (1) *Electronic Signature via DocuSign*: Executing the *Participation Form* electronically through DocuSign will return the signed form to the Implementation Administrator and associate your form with your subdivision's records. Electronic signature is the most efficient method for returning the *Participation Form*, allowing for more timely participation and the potential to meet higher settlement payment thresholds, and is therefore strongly encouraged.
- (2) *Manual Signature returned via DocuSign*: DocuSign allows forms to be downloaded, signed manually, then uploaded to DocuSign and returned automatically to the Implementation Administrator. Please be sure to complete all fields. As with electronic signature, returning a manually signed *Participation Form* via DocuSign will associate your signed forms with your subdivision's records.
- (3) *Manual Signature returned via electronic mail*: If your subdivision is unable to return an executed *Participation Form* using DocuSign, the signed *Participation Form* may be returned via electronic mail to [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com). Please include the name, state, and reference ID of your subdivision in the body of the email and use the subject line Settlement Participation Form - [Subdivision Name, Subdivision State] - [Reference ID].

Detailed instructions on how to sign and return the *Participation Form*, including changing the authorized signer, can be found at <https://nationalopioidsettlement.com/>. You may also contact [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com).

**The sign-on period for subdivisions ends on August 12, 2024.**

If you have any questions about executing the *Participation Form*, please contact your counsel, the Implementation Administrator at [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com), or Kevin McLean, Assistant Attorney General, [kmclean@agutah.gov](mailto:kmclean@agutah.gov), 801-440-4680.

Thank you,

New National Opioids Settlement Implementation Administrator

*The Implementation Administrator is retained to provide the settlement notice required by the New National Opioids Settlement and to manage the collection of the Participation Form.*

**Subdivision Participation and Release Form**

Governmental Entity: Box Elder County	State: UT
Authorized Signatory: <i>Lee Perry Chair</i>	
Address 1: <i>1 S. Main</i>	
Address 2:	
City, State, Zip: <i>Brigham City UT 84302</i>	
Phone: <i>435 734 3300</i>	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 22, 2024 (“*Kroger Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Kroger Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Kroger Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Kroger Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Kroger Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Kroger Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Kroger Settlement. The Governmental Entity likewise agrees to arbitrate before the National



Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Kroger Settlement.

7. The Governmental Entity has the right to enforce the Kroger Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Kroger Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Kroger Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Kroger Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Kroger Settlement.
10. In connection with the releases provided for in the Kroger Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Settlement.



11. Nothing herein is intended to modify in any way the terms of the Kroger Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Settlement in any respect, the Kroger Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: Lee Perry

Name: Lee Perry

Title: Commission Chair

Date: 7-17-24

