



MICHIGAN INDIGENT DEFENSE COMMISSION

Compliance Plan for Indigent Defense Standards 1 – 4

INSTRUCTIONS

Local indigent defense systems have until **November 20, 2017**, to submit to the Michigan Indigent Defense Commission (MIDC) a plan for compliance with the first four approved minimum standards for indigent criminal defense services. This document includes instructions and a compliance plan structure for the submission and information on how to calculate your request for state funding. All application questions must be answered within the requirements, and all attachments and signatures included for a complete application. Failure to submit a complete application will result in the application being disapproved and returned, per MCL 780.993(4). Applications should be submitted through the MIDC's web portal at <http://portal.michiganidc.gov/>.

The application document includes the following sections: Applicant Information, Compliance Plan Narrative, Cost Analysis, Local Share Calculation, Data Collection, and Grant Calculation. The MIDC website, <http://michiganidc.gov>, hosts helpful information for compliance planning including additional guidelines, detailed white papers on each of the four standards and several model plans including sample cost analyses for different local indigent defense delivery systems.

Guidelines for the Cost Analysis and Local Share in the Compliance Plan

All proposed, estimated, or actual expenditures reported in either the Cost Analysis or the Local Share should be reflective of direct indigent defense system activities. For any funding requests for ancillary agencies, the claimed expense must be reasonably and directly related to the indigent defense function, with a clear justification and compelling rationale. The Local Share calculation – which acts as a baseline for continued funding unit contribution to the indigent defense system – may be reported as an estimate if the actual funding level cannot be calculated. If an estimate is provided for the Local Share, the methodology to calculate the estimate must be reported. All Local Share calculations must be certified by the authorizing official on the application. The following instructions provide general guidance for the Cost Analysis and, specifically, the enhanced costs to meet the provisions of the four standards. The costs, expenditures, and rates proposed are presumed reasonable; variations will be considered on a case-by-case basis.

Standard 1 - Indigent defense systems may achieve this standard by having attorneys register for a specific training or by facilitating a local or regional training program. Registration for CLE hours will be allowed at the rate of \$25 per credit hour. Instructors for training programs will be reimbursed at reasonable consultant rates commensurate with the local market. A guideline for illustrative purposes may be up to \$75/hr with allowance for program development and preparation time for the training. Travel expenses for the attorneys to attend training or instructors for training programs will be reimbursed at current State of Michigan travel rates for mileage, meals, and lodging, if needed.

Standard 2 - Attorney time to meet this standard will be reimbursed according to reasonable local attorney rates, whether salaried, contract, or assigned attorneys. To facilitate early communication, practical use of technologies available for digital face-to-face communication may be employed. Supplies and equipment needed for technology-based communications will be considered. If it is necessary to create or alter building space to provide a confidential setting for attorneys and their clients, renovation expenses are allowed up to a maximum of \$25,000 per location. Requests exceeding \$25,000 will be reviewed with higher due diligence and considered with accompanying documentation for justification.

Standard 3 - Expenses for investigators will be considered at hourly rates not to exceed \$75. Expenses for expert witnesses will follow a tiered level of compensation based on education level and type of expert,* not to exceed these amounts:

High School or Equivalent	\$30/hr
Associate's Degree	\$50/hr
Bachelor's Degree	\$70/hr
Master's Degree	\$85/hr
Crime Scene and Related Experts	\$100/hr
CPA/Financial Expert	\$100/hr
Pharmacy/PharmD	\$125/hr
Information Technology Experts	\$150/hr
Ph.D./Licensed Doctor	\$200/hr

**The table of expert hourly rates is adopted from the guidelines published by the North Carolina Indigent Defense Services Commission. Variations will be considered on a case-by-case basis.*

Each indigent defense system will be limited to a capped amount of funds for investigators and experts based on the total new circuit adult criminal filings within the jurisdiction in the most recent calendar

year, as reported and certified with the State Court Administrative Office. Systems within district courts of the 3rd class are considered in Tier I unless special circumstances are presented.

0 - 499 cases/year = Tier I - \$10,000

500 - 999 cases/year = Tier II - \$25,000

1,000 – 9,999 cases/year = Tier III - \$50,000

Over 10,000 cases/year = Tier IV – To be determined bases on further discussion and review of records of the system(s)

Standard 4 - Attorney time to meet this standard should be reimbursed according to reasonable attorney rates, whether salaried, contract, or assigned attorneys. Methods for implementation can include on-call or appointed attorney systems, or other efficient models.

APPLICANT INFORMATION

Applicant Funding Unit(s):

Trial Courts Included in this Compliance Plan Submission:

Fiduciary Funding Unit:

Federal ID Number:

Street Address/City/Zip Code:

AUTHORIZED OFFICIAL (Person Authorized to Enter into Agreements):

Name and Title

Street Address/City/Zip

Telephone

Email Address

Signature

Date

CONTACT INFORMATION

PRIMARY CONTACT

(Person Responsible for Oversight and Reporting of Standards Implementation):

Name and Title

Street Address/City/Zip

Telephone

Email Address

Signature

Date

FINANCIAL CONTACT

(Person Responsible for Grant Accounting):

Name and Title

Street Address/City/Zip

Telephone

Email Address

Signature

Date

COMPLIANCE PLAN NARRATIVE

Briefly describe the indigent defense delivery system(s) – contract, assigned counsel, or public defender – that the funding unit(s), for which this application is being considered, employed to deliver services before the MIDC Act took effect (July 1, 2013).

Generally, how does the system(s) intend to comply with the MIDC standards 1-4? Please address whether you will continue with the model in place above, whether you have already made a transition to a new delivery system, or whether you intend to transition to a new delivery system.

Please identify the name and position held (e.g., county administrator, judge, defense attorney, etc.) for each person involved in the compliance planning process for this delivery system.

Provide an attachment with the names, license or P#'s, and years of criminal defense experience for all attorneys the funding units(s) intends to have deliver services as part of the local indigent defense system.

Standard 1 – Training and Education

Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any of the attorneys included in this plan have fewer than the required experience and require this training? How many?

All attorneys shall annually complete at least 12 hours of continuing legal education. How many attorneys require training in this plan?

How will the funding unit(s) ensure that the attorneys satisfy the 12 hours of continuing legal education during the plan year?

Standard 2 – Initial Interview

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting. To be successful, this requires immediate notification of appointment and client contact information.

How does the plan facilitate immediate attorney assignment and notification of new cases? How will the system ensure attorneys are completing their interviews within three business days? How will the initial interview be accomplished?

This standard further requires a confidential setting be provided for all client interviews.

Does the jail have confidential space for attorney-client interviews? Describe the space available for the interviews or the plan to provide confidential space.

Does the courthouse have confidential space for attorney-client interviews? Describe the space available for the interviews or the plan to provide confidential space.

Standard 3 – Experts and Investigators

This standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client's defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution's case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.

How will this standard be complied with by the delivery system?

Standard 4 – Counsel At First Appearance and Other Critical Stages of the Case

Counsel shall be appointed to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.

How will this standard be complied with by the delivery system?

COST ANALYSIS

The MIDC Act requires funding unit(s) to provide a cost analysis as part of a request for state funding. The cost analysis should include all total indigent criminal defense services costs for compliance with minimum standards and the amount of funds in excess of the local share necessary to comply with the standards.

Refer to the instructions guide for grant allowances.

Personnel

Include staff, if any, whose work is or will be reasonably and directly related to the indigent defense function.

Name	Position	Computation	Total
Total			

Describe the duties of the positions listed (whether full-time or part-time) the number of hours worked, and rate of pay. Identify whether the positions will be a new cost as a result of the compliance plan.

Fringe Benefits	Percentage	Total
Employer FICA		
Retirement		
Hospital Insurance		
Dental Insurance		
Vision Insurance		
Unemployment		
Worker's Compensation		
Life Insurance		
Other		
Other		
TOTAL		

Describe the fringe benefits listed here with the positions above.

Contractual

For assigned counsel, you may group all attorney contracts in one line item. You may list the computation as “various” to indicate various rates of pay and provide detail below for the pay structure. List contractors for training programs. Also, list contractors who will be providing construction services for confidential space, if needed. Confidential space costs should be discussed in detail below but costs cannot exceed \$25,000 per location. Requests exceeding \$25,000 will be reviewed with higher due diligence and considered with accompanying documentation for justification. List contracts for investigators and experts here.

CONTRACTOR	COMPUTATION	SERVICES TO BE PROVIDED	TOTAL
TOTAL			

Provide detail for the types of contractors listed above, rates and hours, and services to be provided. Identify if the contractor will be a new cost or includes cost enhancements for implementation of the compliance plan.

Travel and Training

Include registrations for continuing legal education hours and training. Travel expenses should adhere to local funding unit travel policies, not to exceed State of Michigan standardized travel rates.

TYPES OF TRAVEL/TRAINING	COMPUTATION	TOTAL
TOTAL		

Provide detail for the types of travel and training expenses with applicable rates. Identify whether the expense is new as a result of the compliance plan.

Supplies and Other

Include all other expenses not provided elsewhere in the cost analysis.

ITEM	COMPUTATION	TOTAL
TOTAL		

Provide details for supplies and other expenses. Identify whether the expense is new as a result of the compliance plan.

Total Cost Analysis (sum of all expenditure sections)

\$

The MIDC Act, MCL 780.993(2), allows for an indigent defense system to request reimbursement as part of the total grant for the cost of developing the compliance plan. If submitting a claim for this expense, provide an explanation and calculation with details of all plan development costs. Attach a separate document with the compliance plan submission if needed.

<u>GRANT CALCULATION</u>		
TOTAL COST ANALYSIS		\$
COMPLIANCE PLANNING COSTS	+	\$
LOCAL SHARE	-	\$
COMPLIANCE PLAN GRANT REQUEST		\$

LOCAL SHARE CALCULATION

The Local Share is defined as an indigent criminal defense system’s average annual direct expenditures for adult criminal defense services for three fiscal years preceding the creation of the MIDC Act (effective July 1, 2013). Collections or reimbursements made to the system for partially indigent defendants are applied to the calculation.

Expenditures to be included in the calculation:

- Payments to criminal defense attorneys (contracts, public defenders, appointed systems, hybrid systems) for providing indigent adult criminal defense services including services for expedited docket programs, criminal contempt, juveniles waived into adult court, appeals from district to circuit court or eligible interlocutory appeals to the Court of Appeals
- Payments to experts and investigators
- Other expenses including attorney supplies, travel, or training

Services not included as expenditures:

- Post-sentencing appeals
- Probate, Juvenile Delinquency, Abuse and Neglect cases
- Civil Contempt
- Counsel at lineup (before charges are filed)

Reimbursements:

- Fees paid by or on behalf of a defendant for indigent criminal defense services including payments by the Michigan Department of Corrections and grant payments that include indigent defense services as eligible grant expenditures (i.e. expedited docket programs)

If the actual expenses and reimbursements cannot be calculated as exact, identify that you are providing estimates and discuss the methodology for determining the estimated local share.

FISCAL YEAR	TOTAL EXPENSES	REIMBURSEMENTS	NET EXPENSES
Average of Three Fiscal Years			

Certification: I certify to the best of my knowledge and belief that the calculation of the local share is correct and complete and that all fiscal details included are direct indigent defense system expenditures and reimbursements in the given fiscal years.

Authorizing Official Name _____
(Printed) (Signature)

Title _____ Date _____

Data Collection

In the future, the MIDC expects to collect data on the following topics related to the first four standards. Data points include “system-wide data” (pertaining to each indigent defense system), “attorney-level data” (pertaining to each attorney) and “case-level data” (pertaining to each individual court case). This list is not exhaustive but offers guidance on the types of data that will be critical to demonstrating standards compliance.

System-Wide Data Points

- Local requirements for training
- Existence of local training options
- Structure of any local administrative bodies responsible for identifying training needs and implementing training
- Mechanism(s) and timeline for notifying attorneys of new appointments
- Existence of confidential space for attorney-client interviews in holding facilities and courthouses
- Mechanism(s) by which attorneys request investigators or expert witnesses
- Delivery models for provision of counsel at first appearance

Attorney-Level Data Points

- P numbers and contact information
- Total number of annual completed CLE credits
- Location, date and content of all completed training courses

Case-Level Data Points

- Defendant request for appointed counsel
- Court appointment of counsel and date
- Date of attorney notification of appointment
- Date of initial client interview
- Request for investigator, date granted or denied
- Request for expert witness, date granted or denied
- Presence of counsel at first appearance
- Mechanism by which counsel at first appearance was provided
- Type and amount of bail issued, if any

The MIDC Act, MCL 780.993 (9), requires the state to appropriate funds for the reasonable costs associated with data required to be collected by the MIDC in excess of the local government’s data costs for other purposes. Costs associated with data collection are not required to be submitted with this compliance plan submission but will be addressed at a future date and are remarked here for informational purposes.

Part I, Registration

Step 1: Visit <http://portal.michiganidc.gov/>.

Step 2: Select *Request Access* which is located below the Welcome to the MIDC message.



Registration



Welcome to the MIDC

The Michigan Indigent Defense Commission (MIDC) was created by legislation in 2013 after an advisory commission recommended improvements to the state's legal system. The MIDC will work to ensure the state's public defense system is fair, cost-effective and constitutional while simultaneously protecting public safety and accountability.

START HERE

[New User - Request Access](#)

[Returning User - Login Here](#)



Step 3: Complete the *User Registration* form. When selecting *Position*, please choose the position that best describes your role in the indigent defense system. Once you have completed the form, click the *Submit* button.

USER REGISTRATION

First Name <input type="text"/>	Last Name <input type="text"/>
Position Select Positions ▼	Email <input type="text"/>
Address 1 <input type="text"/>	Address 2 <input type="text"/>
City <input type="text"/>	State Michigan ▼
Zip <input type="text"/>	Phone <input type="text"/>
Fax <input type="text"/>	Counties Select Counties ▼
Courts Select Courts ▼	Primary Court Select Primary Court ▼

You will be receiving an email shortly with more information.

Submit

Step 4: After submitting the registration form you will receive a confirmation email that details the user verification process. Once your account has been verified, you will receive additional instructions for establishing a password.

Part II, Compliance Plans

Step 1: Visit <http://portal.michiganidc.gov/>.

Step 2: Select *Login Here* which is located below the Welcome to the MIDC message.



Registration



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[START HERE](#)

[New User- Request Access](#)

[Returning User - Login Here](#)

Step 3: Enter your Username (this is your email address) and your Password. Select *Login*.



MICHIGAN INDIGENT
DEFENSE COMMISSION

User Log In

Username:

Password:

Login

Cancel

Remember Login

Reset Password

Step 4: After you have logged in, you will be directed to the User Summary page. From here click on the *My Compliance Plans* tab.

MICHIGAN INDIGENT DEFENSE COMMISSION Registration Activity Administration

USER SUMMARY

[My Profile](#) [My Surveys](#) [My Compliance Plans](#) [My Fee Schedules](#) [My Attorney Caseload Reports](#) [My CLE Hours](#)

USER PROFILE

Full Name

First Name Last Name

Position Email

Address 1 Address 2

City State

Zip Phone

Fax Counties

Courts Primary Court

Step 5: From the *My Compliance Plans* tab select *Start New*.

MICHIGAN INDIGENT DEFENSE COMMISSION Registration Activity Administration

USER SUMMARY

[My Profile](#) [My Surveys](#) [My Compliance Plans](#) [My Fee Schedules](#) [My Attorney Caseload Reports](#) [My CLE Hours](#)

MY COMPLIANCE PLANS

Search

Sort By Items Per Page Page 1 of 1

Compliance Plan Name	County	Court	Actions
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Step 6: Once you select *Start New* a popup will appear. Select the down arrow on the right-hand side of the selection box. This will give you a list of forms. Select the form titled *Compliance Plans 2017 (Standards 1-4)*. Next, click the *Start* button.

The screenshot shows the Michigan Indigent Defense Commission user interface. At the top left is the logo and name 'MICHIGAN INDIGENT DEFENSE COMMISSION'. At the top right are links for 'Registration', 'Activity', and 'Administration'. Below the header is a 'USER SUMMARY' section with tabs for 'My Profile', 'My Surveys', 'My Compliance Plans' (which is active), 'My Fee Schedules', 'My Attorney Caseload Reports', and 'My CLE Hours'. Underneath is the 'MY COMPLIANCE PLANS' section, which includes a search bar with a 'Search...' input and a 'Search' button. A 'Start New' button is visible on the left. A modal window titled 'Start New Form' is open, showing a dropdown menu with 'Select One' and a list of forms, with 'Compliance Plans 2017 (Standards 1-4)' selected. To the right of the modal, there are controls for 'Sort By', 'Items Per Page' (set to 10), and 'Page 1 of 1'. At the bottom of the modal, there is an 'Actions' column.

Step 7: Complete the *Compliance Plans 2017 (Standards 1-4)* form. Be sure to upload all required documents. Once you have completed the form select *Submit*.