



MICHIGAN INDIGENT DEFENSE COMMISSION

Date: Tuesday, February 15, 2022, Time: 11:00 a.m.
Michigan Bankers Association
507 S Grand Ave, Lansing, MI 48933

MEETING AGENDA

1. Roll call and opening remarks
 2. Introduction of Commission members and guests
 3. Public comment
 4. Additions to agenda
 5. Consent agenda (action item)
 - a. December 21, 2021 Meeting Minutes
 - b. January 24, 2022 Special Meeting Minutes
 6. Chair Report
 7. Executive Director Report
 8. Commission Business
 - a. Standing Committee Reports
 - i. Executive Committee – *Christine Green, Chair*
 - ii. Indigence and Compensation Committee – *Judge Fisher, Chair*
 - b. Ad hoc committee reports
 - i. Diversity, Equity, and Inclusion Committee – *Hakim Crampton, Chair*
 - ii. Unexpended Balances Committee – *Andrew DeLeeuw, Chair*
 - iii. Strategic Planning Committee - *Christine Green, Chair*
 - o Revisions to Strategic Plan (action item)
- ~~ Break for lunch ~~
- c. Regional Update: Northern Michigan – *Melissa Wangler, Regional Manager*
 - d. FY23 Compliance Planning
 - i. Grant manual revisions (action item)
 - ii. Compliance planning resources for funding units (action items)
 - o Updated questions for indigency screening standard
 - o Sample plans for delivery systems
 - o Answers to frequently asked questions
 - o Decision trees for indigence, contribution, and reimbursement

- e. FY21 Compliance Planning
 - i. Q4 reporting update
 - ii. Notice of noncompliance
 - o City of Hazel Park
 - o City of Inkster
 - f. FY22 Compliance Planning (approved plans)
 - i. Q1 Reporting using EGrAMS
 - ii. Request to Revise Total System Cost Awarded (action item)
 - o Mecosta County - rural county pilot project to increase attorney availability using work project funding
 - iii. Budget adjustments (information items)
 - g. Review of FY22 Compliance Plan and Cost Analysis Final Submissions
 - i. Ad Hoc Committee reports
 - ii. Recommendations by senior staff (action items)
 - o Disapprove plan, disapprove cost analysis
 - D 43-1 City of Hazel Park
 - o Approve plan and cost analysis
 - D 32a - City of Harper Woods
 - D 62A - City of Wyoming (also covers Grandville, Walker, Kentwood)
 - o Approve cost analysis (plan previously approved)
 - D 36 - City of Detroit
 - D 43-3 City of Madison Heights
 - Macomb County
 - o Approve portions of cost analysis pursuant to MCL 780.993(4) (plan previously approved)
 - Wayne County
9. Adjourn
- Next meeting: April 19, 2022 beginning at 11:00 a.m. in Lansing

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, MI. Remote access via Zoom was also available for members of the public and Commissioners in compliance with the Open Meetings Act. The MIDC website and meeting notice included information for members of the public on how to participate.

December 21, 2021

Time: 9:00 am

Michigan Bankers Association
507 S Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person in Lansing:

- Presiding Officer Christine Green
- Joshua Blanchard
- Tracey Brame
- Paul Bullock
- Hakim Crampton
- Andrew DeLeeuw
- Judge James Fisher
- James Krizan
- Debra Kubitskey
- Margaret McAvoy
- John Shea
- William Swor
- Rob VerHeulen

The following members participated remotely under exemptions from the Open Meetings Act. During roll call, these Commissioners were asked to identify the county, city, town or village and state from which they are attending, that information is reflected below in parentheses following each Commissioner's name.

- Kimberly Buddin (Novi, Oakland County, Michigan)
- Tom McMillin (Oakland County, Michigan)
- Cami Pendell (Eaton County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan)

Presiding Officer Green called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 9:00 am.

Introduction of Commission members and guests

Presiding Officer Green welcomed attendees to the meeting. No guests wished to introduce themselves.

Public Comment

The Commission received public comment from the following individuals: Jill Tynes, Robin Dillard, Viola King, Kimberley Dorsey, Angela Peterson, Neil Leithauser and Matthew Knecht.

Additions to agenda

There were no additions to the agenda. Commissioner McAvoy moved that the agenda be adopted as presented. Commissioner Bullock seconded. The motion carried.

Consent Agenda

Commissioner Kubitskey moved that the consent agenda containing the minutes from the November 22, 2021 meeting be adopted. Commissioner VerHeulen seconded. The motion carried.

Presiding Officer Report

Presiding Officer Green made the following standing and ad hoc committee appointments:

- Rob VerHeulen to the Indigence and Compensation, Line Item Veto committees and to the newly formed committee to study unexpended grant funds.
- Paul Bullock to the Performance Standards committee and the committee that reviews increases to direct service costs.

She established an ad hoc committee to study unexpended grant funds. The following members were appointed to this new committee: Andrew DeLeeuw (Chair), Rob VerHeulen, Tracey Brame, Margaret McAvoy and James Krizan.

Commission Business

Standing Committee Reports

Presiding Officer Green provided a report from the Executive Committee. The committee recommended that the Commission adopt a policy that persons wishing to make public comment identify themselves by their legal name and either (a) appear in person or (b) have their camera on while making their comments. Commissioner Walker moved that this policy be adopted. Commissioner Blanchard seconded. The motion carried.

Commissioner Walker provided an update from the Executive Director Hiring Committee. Ms. Staley has been offered a two-year contract term by the MIDC to begin January 9, 2022 and that contract is being finalized with the Department of Licensing and Regulatory Affairs.

Commissioner Brame provided an update from the Training and Education Committee. Commissioner Brame moved that the Commission adopt the proposed Guidelines for Trainer and Training Providers. Commissioner DeLeeuw seconded. The motion carried.

Commissioner Shea provided a written report from the Nominations Committee. The committee recommends that the following Commissioners serve as officers beginning January 2, 2022: Christine Green, Chair, Tracey Brame, Vice Chair and Gary Walker, Secretary. The committee recommends that Judge Fisher serve as an ex officio member of the Executive Committee.

Commissioner McAvoy moved to adopt the officers nominated in the committee report for a term beginning January 2, 2022. Commissioner Krizan seconded. The motion carried.

Presiding Officer Green provided an update on the Strategic Planning Committee's work and a draft report for the Commission's review. The document will be considered at a special meeting on January 24, 2022. Commissioner Shea moved to approve funding if available for the design and publication of the final Strategic Plan. Commissioner McAvoy seconded. The motion carried.

Ms. McCowan and Dr. Siegel presented the Urban Institute's Evaluation of the MIDC's Minimum Standards for Indigent Defense Services. Judge Fisher moved to accept and submit the report to LARA's Office of Policy and Legislative Affairs pursuant to MCL 780.985(7). Commissioner Kubitskey seconded. The motion carried.

FY21 Compliance Updates – City of Wyoming Plan Change Request

The City of Wyoming requested an amendment to its Compliance Plan and Cost Analysis for FY21 to create an Indigent Defense Coordinator/Managed Assigned Counsel full time employee position for the regional plan that includes four funding units and three third class district courts (Grandville, Kentwood, Walker and Wyoming). Judge Fisher moved that the City of Wyoming's request to change its FY21 compliance plan be adopted. Commissioner VerHeulen seconded. The motion carried.

Update on FY22 Compliance Plan and Cost Analysis Submissions

Oakland County requested a plan change to amend its fee schedule to clarify that extraordinary fees are available to attorneys handling non-capital cases. The County does not believe that this request will result in a budget shortage because of continued reduced case levels and fewer trials due to the pandemic. Commissioner Shea moved that the plan change be adopted. Commissioner Brame seconded. The motion carried.

The Commission will hold a special meeting on January 24, 2022 at 10:00 am. The next regular meeting will be held February 15, 2022 at 11:00 am.

Commissioner Swor moved that the meeting be adjourned. Commissioner Kubitskey seconded. The motion carried. The meeting adjourned at 12:59 pm.

Respectfully submitted,

Marcela Westrate

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, MI. Remote access via Zoom was also available for members of the public and Commissioners. The MIDC website and meeting notice included information for members of the public on how to contact the MIDC to obtain the Zoom link for participation.

January 24, 2022

Time: 10:00 am

Michigan Bankers Association
507 S Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person in Lansing:

- Chair Christine Green
- Joshua Blanchard
- Paul Bullock
- Andrew DeLeeuw
- James Krizan
- Debra Kubitskey
- Margaret McAvoy

The following members participated remotely but did not qualify for an exemption to do so under the Open Meetings Act. During roll call, these Commissioners were asked to identify the county, city, town or village and state from which they are attending, that information is reflected below in parentheses following each Commissioner's name.

- Tracy Brame (Kent County, Michigan)
- Kimberly Buddin (Novi, Oakland County, Michigan)
- Hakim Crampton (Jackson, Jackson County, Michigan)
- James Fisher (Kent County, Michigan)
- Tom McMillin (Oakland County, Michigan)
- Judge Kristina Robinson Garrett (Detroit, Wayne County, Michigan)
- John Shea (Dexter Township, Washtenaw County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Rob VerHeulen (Kent County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan)

The following Commissioners were absent:

- David Jones
- Cami Pendell

Presiding Officer Green called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 10:00 am. There was not a quorum of Commissioners present.

Public Comment

No members of the public provided comment.

Chair Report

Chair Green updated the Commission on the Executive Committee’s activities since the December meeting.

Executive Director Report

Kristen Staley provided an overview of her first three weeks since assuming the role of Executive Director.

Commission Business

Strategic Plan discussion

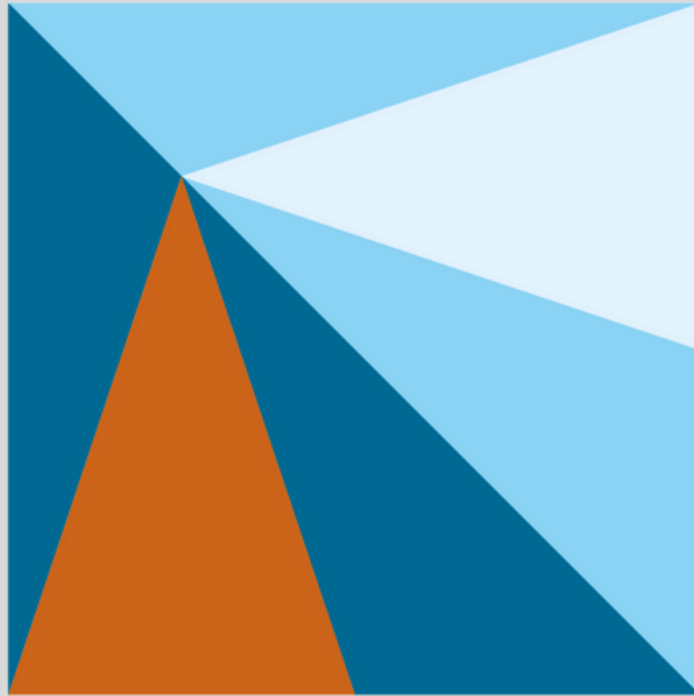
Chair Green led a discussion about the draft strategic plan.

The meeting adjourned at 1:40 pm.

The Commission will meet on February 15 at 11:00 am. The meeting will be held at the Michigan Bankers Association building.

Respectfully submitted,

Marcela Westrate



Strategic Plan

Michigan Indigent
Defense Commission

Final Draft - February 2022

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Strategic Planning Committee Members

Christine Green, Committee Chair

Joshua Blanchard

Hon. Jeffrey Collins

Nathaniel "Hakim" Crampton

Margaret McAvoy

William Swor



The Michigan Indigent Defense Commission (MIDC) was created by legislation in 2013. The MIDC Act is found at MCL §780.981 et seq.

The MIDC develops and oversees the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that criminal defense services are delivered to all indigent adults in this state consistent with the safeguards of the United States Constitution, the Michigan Constitution of 1963, and with the MIDC Act.

The Governor makes appointments to the 18-member commission pursuant to MCL §780.987, and began doing so in 2014. The interests of a diverse group of partners in the criminal legal system are represented by Commissioners appointed on behalf of defense attorneys, judges, prosecutors, lawmakers, the state bar, bar associations advocating for minorities, local units of government, the state budget office, and the general public.

Mission Statement

The Michigan Indigent Defense Commission ensures that quality public defense services are accessible to all eligible adults charged with a criminal offense in Michigan.

To accomplish its mission, the MIDC:

- Develops and supports implementation of minimum standards and best practices for indigent defense;
- Advocates for public and private funding to ensure sustainable, resourced public defense systems that meet MIDC minimum standards and constitutional requirements for effective assistance of counsel;
- Monitors compliance with minimum standards for indigent defense;
- Exercises good stewardship of public funds designated to support indigent defense; and
- Collects and analyzes data to assess the impact of the Commission's work and inform its decisions.

Core Values

In honoring the legal mandates for quality public defense services and fulfilling its mission, the MIDC is guided by these principles:

The presumption of innocence is of the highest priority in a constitutionally adequate criminal legal system.

The pursuit of equal protection for all persons charged with criminal offenses and the elimination of systemic bias from the criminal legal system are bedrock to the Commission's mission.

Our communities and the broader public welfare are enhanced by a quality public defense system that recognizes the value, dignity, and humanity of all persons charged in criminal court through zealous, client-centered advocacy.

Authentic partnerships with local governments is fundamental to the successful implementation of a quality public defense under the MIDC Act.

Continued...

Core values, continued...

Access to comprehensive and accurate criminal legal system data is necessary and important to inform the Commission's work.

Training and education of defense attorneys and other defense team members is critical to a quality public defense system.

Partnerships with other stakeholders in the criminal legal system at the state and local level are critical to the Commission's fulfillment of its mission.

Public funding for indigent defense should be used effectively and efficiently to support quality public defense in Michigan.



Vision Statement

Through its contributions, the
Commission envisions:

A sustainable, well-resourced public
defense system that honors the dignity of
all persons that it serves;

Improved trust in the legal process
through the provision of quality public
defense services; **and**

A just and equitable criminal legal system.



Priorities



Ensure the effective use of public funds approved and distributed by the MIDC

Short Term Goals:

1. Identify and communicate best practices and resource sharing.
2. Continue to refine tools to evaluate spending.
3. Create a committee to review unexpended balances.
4. Promote efficiency through the internal review process.

Long Term Goals:

1. Consider recommendations proposed in the local share study completed in 2020.
2. Develop processes for monitoring or reviewing spending practices in systems.

Act on the MIDC's commitment to diversity, equity and inclusion

Short Term Goals:

1. Develop implicit bias and cultural competency training for staff and the Commission.
2. Follow DEI best practices in hiring and retaining the Commission's staff.
3. Encourage local systems to use best practices in hiring indigent defense service providers.
4. Support local efforts to collect data to help identify disparities.
5. Collaborate with systems to support appointed attorneys **in receiving** training on implicit bias, cultural competency, and how to litigate issues like racial disparity.

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Long Term Goals:

1. Regularly review all Commission policies and standards with a DEI lens and assess whether new policies to promote DEI should be adopted.
2. Communicate with scholars and local groups working on DEI.
3. Collect data to help identify disparities at various stages of criminal prosecutions.

Support compliance with the MIDC's standards

Short Term Goals:

1. Refine and implement a process for dispute resolution between MIDC and local systems to resolve compliance issues.
2. Set a regular schedule for review of our Grant Manual and other published policies.
3. Provide technical resources to local funding units in accordance with the statutory directive.

Implement all MIDC standards

Short Term Goals:

1. Review and revise as necessary any pending standards previously approved by the MIDC.
2. Work with the Department to secure approval of the pending standards.

Long Term Goals:

1. Propose additional standards if necessary and/or not included in MIDC Act.

Encourage innovation and best practices in public defense systems

Short Term Goals:

1. Improve communication about best practices.
2. Receive regular updates from staff and systems.

Long Term Goals:

1. Establish innovation grant opportunities for trial court funding units from public and private sources.
2. Seek grants designed to support indigent defense initiatives in Michigan.

Ensure operations and funding are in place to sustain the MIDC's mission over time; explore national and private sources of funding

Short Term Goals:

1. Review onboarding and orientation for new Commissioners.
2. Establish open communications between staff and Commissioners through Executive Director.
3. Revisit organizational structure periodically as necessary.
4. Respond to collective suggestions and concerns from staff through the Executive Director about policy or system reform issues.
5. Demonstrate MIDC's impact through data collection and performance metrics.
6. Establish an ad hoc committee to make recommendations about data collection.

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Long Term Goals:

1. Explore a permanent source of **state** revenue for the MIDC.
2. Explore potential statutory or contract amendments to collect data to standardize the method of reporting and make the process less burdensome for the local units.
3. Take a leadership role in ongoing efforts to modernize and standardize indigent criminal defense data collection.

Provide leadership in the criminal legal system

Short Term Goals:

1. Identify audiences and leaders whose primary role is to improve public defense services and provide leadership to those stakeholders.
2. Approach **our** supportive role with flexibility, recognition of ongoing trends, and developments in the criminal legal system.

Long Term Goals:

1. Engage with, and prioritize feedback from, justice impacted people.
2. Encourage collaboration and creativity in the community of defender leaders and facilitate access to resources for leaders.

Fortify relationship with LARA and external criminal legal system partners, including local system stakeholders

Short Term Goals:

1. Explore opportunities to coordinate efforts to educate the public about the work of the MIDC through regular publications, press releases, etc.
2. Engage Commissioners occasionally in meetings with state leadership.

Chair of the Michigan Indigent Defense Commission

Represents the State Budget Office

Joshua Blanchard, Greenville

Represents the Criminal Defense Attorneys
of Michigan

Tracey Brame, Grand Rapids

Represents the Chief Justice of the
Michigan Supreme Court

Kimberly Buddin, Novi

Represents those whose primary mission or
purpose is
to advocate for minority interests

Paul E. Bullock, Ewart

Represents the Senate Majority Leader

Nathaniel “Hakim” L. Crampton, Jackson

Represents the general public

Andrew D. DeLeeuw, Manchester

Represents the Michigan Association of
Counties

Hon. James Fisher (Retired), Hastings

Represents the Michigan Judges Association

Hon. Kristina Robinson Garrett, Detroit

Represents the Michigan District Judges
Association

David W. Jones, Detroit

Represents the State Bar of Michigan

James R. Krizan, Allen Park

Represents the Michigan Municipal League

Debra Kubitskey, South Lyon

Represents the Senate Majority Leader

Margaret McAvoy, Owosso

Represents the Michigan Association of
Counties

Tom McMillin, Oakland Township

Represents the Speaker of the House of
Representatives

Cami M. Pendell

Supreme Court Chief Justice Designee, ex
officio member

John Shea, Ann Arbor

Represents the Criminal Defense Attorneys
of Michigan

William Swor, Grosse Pointe Woods

Represents the Criminal Defense Attorneys
of Michigan

Robert VerHeulen, Walker

Represents the Speaker of the House of
Representatives

Gary Walker, Marquette

Represents the
Prosecuting Attorneys Association of
Michigan



GRANT MANUAL



MICHIGAN INDIGENT
DEFENSE COMMISSION

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Revised February 2021

This Grant Manual is created for the convenience of stakeholders seeking information about compliance with the MIDC’s standards and the contracts issued to indigent criminal defense systems pursuant to an approved plan and cost analysis. The Commission makes policy determinations regarding funding for the standards. The MIDC’s staff serves as liaisons between stakeholders and the Commission and are responsible for bringing novel questions to the Commission for consideration and action. This manual is designed to capture decisions that the Commission has made through action on prior plans and costs for compliance with the standards. This manual will be revised regularly to reflect policy decisions by the Commission and made available on the Commission’s public website. Notifications of updates will be communicated to local funding units.

The MIDC Act, in its entirety, is the primary document governing MIDC activities and should be referred to for full context of excerpted materials in this manual.

General Authority

The Michigan Indigent Defense Commission (“MIDC”) Act is found at MCL §780.981 *et seq.*

Relevant Provisions of the MIDC Act for Standards, Compliance, and Reporting

The MIDC Establishes Standards for Indigent Defense

The MIDC is responsible for “[d]eveloping and overseeing the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of counsel are consistently delivered to all indigent adults in this state consistent with the safeguards of the United States constitution, the state constitution of 1963, and this act.” MCL §780.989(1)(a).

The MIDC Creates Rules and Procedures for Compliance Plans for Indigent Criminal Defense Systems

The MIDC has the authority and duty to establish “rules and procedures for indigent criminal defense systems to apply to the MIDC for grants to bring the system’s delivery of indigent criminal defense services into compliance with the minimum standards established by the MIDC.” MCL §780.989(1)(g).

Indigent Criminal Defense System Creates Compliance Plan

“No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before **October 1** of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.” MCL §780.993(3) (emphasis added).

Local Share

The local share refers to “an indigent criminal defense system's average annual expenditure for indigent criminal defense services in the 3 fiscal years immediately preceding the creation of the MIDC under this act, excluding money reimbursed to the system by individuals determined to be partially indigent. Beginning on November 1, 2018, if the Consumer Price Index has increased since November 1 of the prior state fiscal year, the local share must be adjusted by that number or by 3%, whichever is less.” MCL §780.983(i).

“[A]n indigent criminal defense system shall maintain not less than its local share. If the MIDC determines that funding in excess of the

indigent criminal defense system's share is necessary in order to bring its system into compliance with the minimum standards established by the MIDC, that excess funding must be paid by this state.” MCL §780.993(7). The requirement for spending the local share is activated by the need to spend in excess of that total. The statute does not dictate the *order* in which the state dollars and local share be spent during the contract year. The local share can be contributed at any time during the contract year.

“An indigent criminal defense system must not be required to provide funds in excess of its local share. The MIDC shall provide grants to indigent criminal defense systems to assist in bringing the systems into compliance with minimum standards established by the MIDC.” MCL §780.993(8).

Approval of Compliance Plans

“The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within **90 calendar days** of the submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, for any disapproved portion, submit a new plan, a new cost analysis, or both within **60 calendar days** of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.” MCL §780.993(4) (emphasis added).

Duty of Compliance with Approved Plan

“Within 180 days after receiving funds from the MIDC ... an indigent criminal defense system shall comply with the terms of the grant in bringing its system into compliance with the minimum standards established by the MIDC for effective assistance of counsel. The terms of a grant may allow an indigent criminal defense system to exceed 180 days for compliance with a specific item needed to meet minimum standards if necessity is demonstrated in the indigent criminal defense system's compliance plan. The MIDC has the authority to allow an indigent criminal defense system to exceed 180 days for implementation of items if an unforeseeable condition prohibits timely compliance.” MCL §780.993(11).

The MIDC Reviews Systems for Compliance

The MIDC will be “[i]nvestigating, auditing, and reviewing the operation of indigent criminal defense services to assure compliance with the commission's minimum standards, rules, and procedures.” MCL §780.989(1)(b).

Financial Reporting

“The MIDC shall ensure proper financial protocols in administering and overseeing funds utilized by indigent criminal defense systems, including, but not limited to, all of the following:

- a) Requiring documentation of expenditures.
- b) Requiring each indigent criminal defense system to hold all grant funds in a fund that is separate from other funds held by the indigent criminal defense system.
- c) Requiring each indigent criminal defense system to comply with the standards promulgated by the governmental accounting standards board.” MCL §780.993(14).

Unexpended Grant Funds

“If an indigent criminal defense system does not fully expend a grant toward its costs of compliance, its grant in the second succeeding fiscal year must be reduced by the amount equal to the unexpended funds.

Identified unexpended grant funds must be reported by indigent criminal defense systems on or before **October 31** of each year. Funds subject to extension under subsection (11) must be reported but not included in the reductions described in this subsection. Any grant money that is determined to have been used for a purpose outside of the compliance plan must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts.” MCL §780.993(15) (emphasis added).

Overspending on Services

“If an indigent criminal defense system expends funds in excess of its local share and the approved MIDC grant to meet unexpected needs in the provision of indigent criminal defense services, the MIDC shall recommend the inclusion of the funds in a subsequent year's grant if all expenditures were reasonably and directly related to indigent criminal defense functions.” MCL §780.993(16).

Compliance Planning by Indigent Defense Systems

Resources Available on the MIDC's Website

- The MIDC Standards
- [A link to the MIDC's grant management program, EGrAMS](#)
- [Training for technical support with grant management system as well as substantive compliance planning topics](#)
- White papers for MIDC Standards 1-4
- [Answers to Frequently Asked Questions about the standards covering independence from the judiciary and indigency, contribution and reimbursement](#)
- *Delivery System Reform Models: Planning Improvements in Public Defense* (MIDC, December 2016)
- Department of Treasury correspondence regarding adult indigent criminal defense funds

Compliance Plan Components

Identification of System

All compliance plans will need to address the following general information:

- ✓ The authorizing official submitting the plan and signing the contract terms of the funding consistent with the approved plan
- ✓ The point(s) of contact for the submitted plan (phone, email, address)
- ✓ A local financial contact for the post award fiscal administration
- ✓ Trial court funding unit(s) and court(s) included in the plan
- ✓ The identification of stakeholders or committee members involved in the planning process
- ✓ Collaborative plans must list all systems and trial courts associated with the plan

Compliance with Approved Standards

The submitted plan will address each standard individually. A statement is required to identify and expand on the current or existing state of the system's process or work in subject the area of the standard. The submission will then need to highlight the changes or enhancements needed to achieve the standard, if any.

Cost Analysis

A cost analysis (budget) for the compliance plan must be submitted **with the compliance plan through the MIDC's grant management program, EGrAMS**, ~~in the format approved by the MIDC~~, including the detail of costs associated with a non-profit/vendor model defender office. Reasonableness will be stressed and a list or guidelines for permissible costs is included in this manual. To minimize rejections after official submission, systems should contact their MIDC Regional Manager, before submissions, to discuss compliance plan costs that pose situations not addressed in guidelines.

Local Share

The MIDC Act requires maintenance of a certain level of funding by the local system(s), defined as the local share. The calculation of the local share involves the capture of expenditures for adult indigent defense costs for the three fiscal years preceding enactment of Public Act 93 of 2013. The costs are then offset by the corresponding collections or payments for court appointed counsel services in the same time period on behalf of defendants made by either an individual or an agency.

Beginning in FY2019, all systems calculated and certified their local share. A certification of the local share calculation, acknowledged through local official authorization, was a requirement of the original compliance plan and cost analysis. The local share will be adjusted each year in accordance with the statutory requirement. MIDC grant funds are calculated as the approved cost analysis offset by the local share. Any system seeking to modify its local share due to errors in the original calculation must contact its Regional Manager. Modifications are subject to review of the methodology by the Grant Manager and approval by the Commission.

Fund Established

A condition of award to the local system(s) shall include the grantee securing and supplying to the MIDC a resolution from the local legislative branch (board of commissioners, city council) for the creation of a new fund within the local chart of accounts. The sole purpose of this fund shall be for accepting the grants funds from the MIDC and charging all plan-related costs to this fund. As a condition or assurance upon accepting the award, this fund will allow for better management of the grant funds and monitoring by the local and state interested parties. All adult indigent criminal defense funding (local share and MIDC grant award) must be deposited into the fund. The local fund description shall allow for any fund balance not to revert to the general fund at the close of a fiscal year. Rollover funds will be used for expenditures that cross fiscal years as well as unexpended funds to be used for future compliance expenditures.

Guidelines for Drafting Compliance Plans

The following information captures decisions that the Commission has made through action on prior plans and costs for compliance with the standards. In reviewing compliance plans, the Commission will generally limit approval of costs to those necessary to implement the MIDC's standards. Novel questions will be brought to the Commission for decision.

General Principles

Prosecutors, Judges, Magistrates

The MIDC Act charges the Michigan Indigent Defense Commission with the authority to develop, oversee implementation, enforcement and modification of minimum standards, rules and procedures to ensure that *indigent criminal defense services* providing effective assistance of counsel are delivered to all indigent adults in the State of Michigan. The Commission will not provide funding for prosecutors, judges, or magistrates to perform their duties. The Commission remains mindful that “defense attorneys who provide indigent criminal defense services are partners with the prosecution, law enforcement, and the judiciary in the criminal justice system.” MCL 780.989(4).

Administrator for Delivery Systems

A funding unit considering the use of a managed assigned counsel system or public defender administrator must use a licensed attorney in good standing with the State Bar of Michigan for all duties involving management or oversight of attorneys or cases within the system.¹

Defense Attorneys – Direct Service Providers

All attorneys identified by the funding unit to provide direct representation to indigent defendants must be licensed attorneys in good standing with the State Bar of Michigan and are bound by the Michigan Rules of Professional Conduct. Until approval of Minimum Standard 8, Economic Disincentives or Incentives, funding unit

¹ See MIDC meeting minutes, June 2017; MRPC 5.4(c).

employees or contract providers shall be given reasonable compensation.

Non-Lawyers – Direct Service Providers and Interdisciplinary Defense Teams

Provided they are used to comply with minimum standards, MIDC grant funds can be used to hire employees or independently contract with licensed private investigators, or experts in any field recognized in the criminal justice community, to assist the defense.

Public Defender and Managed Assigned Counsel Systems

Systems may choose to set up regional or local delivery system reform models such as public defender offices or managed assigned counsel programs to meet the minimum standards.² Set-up and operational costs of the office should be included. Lease or rent payments for offices of funding unit employees providing direct services and their staff are permissible expenses. Systems seeking to change models (i.e., move from an assigned counsel system to a public defender office) should include a feasibility study, including a caseload analysis, sufficiently detailed to allow staff and Commission to review anticipated system impacts.³ Please consult with a Regional Manager for samples of these studies.

A compliance plan may include the cost of the State of Michigan's basic bar dues for attorneys employed full time by the system. Systems can also include the cost of a license for full time employees with positions requiring a license (i.e. investigator). MIDC grant funding is not permitted for membership in local bar associations or any optional professional organizations, with the exception of funding for eligible training resources indicated by MIDC Standard 1.⁴

² MIDC staff members are able to assist systems with hiring considerations, but cannot serve as a voting member in any employment decision-making process.

³ The costs associated with a feasibility study may be reimbursed pursuant to MCL §780.993(2).

⁴ See MIDC meeting minutes, October 2019.

A compliance plan may include the cost of malpractice insurance for attorneys employed full time by the system.⁵ Rates should be commensurate with those offered by the National Legal Aid and Defender Association's preferred carrier.

Hiring of Ancillary Staff

Many systems will hire indirect or ancillary service providers to implement the standards. Ancillary staff refers to personnel outside of assigned counsel and their support staff. Most often these positions include jail corrections staff to facilitate attorney-client communication pursuant to Standards 2 and 4. Other positions include clerks or court staff. **The MIDC does not subsidize jail or court operations; the Commission will authorize funding only for the actual incremental costs necessitated by compliance with the MIDC Standards.** These positions must be reasonably and directly related to implementation of the standards to qualify for MIDC grant funding. Local systems are **required to provide justification and supporting documentation when requesting funding for corrections staff, and required** encouraged to submit time tracking studies with any request to fund **any of** these positions. Supplanting⁶ of existing positions is not permitted.

Cost Allocation

Systems seeking to include cost allocation or indirect costs for employees are allowed. Funding that exceeds 10% of the personnel and fringe benefit (total) is subject to additional scrutiny and must include any methodology for determining the costs.⁷

Reimbursement for Overspending

A system that spends in excess of the prior year's total system cost can seek reimbursement as a separate line item in the subsequent cost analysis for services. **MCL 780.993(16).**

⁵ See MIDC meeting minutes, July 2019.

⁶ Supplanting refers to the local funding unit's reduction of local funds for an activity specifically because state funds are available to fund that same activity.

⁷ See MIDC meeting minutes, June 2019.

Regional Cooperation

The Commission urges efficient models of providing indigent defense. In some communities, multiple funding units may collaborate to deliver indigent defense services. The statutory authority for multiple counties cooperating in a regional delivery system model can be found in the Urban Cooperation Act of 1967, at MCL §124.501 et seq.

Travel

Rates will be appended to the grant contract. Unless local rates apply, any travel related expenses requested for compliance planning shall not exceed the rates provided by the “Schedule of Travel Rates” and the general policies for reimbursement of travel adopted by the State of Michigan.

Absent extraordinary circumstances, no grant funds for out-of-state travel will be allowed in any compliance plans. Travel to visit a client housed in custody in another state constitutes an extraordinary circumstance.

Travel for training out of state will only constitute an extraordinary circumstances if it is necessary to secure specialized training for public defender staff that is not available in Michigan.⁸ Public defender offices may seek funding for newly-hired attorneys with fewer than two years of experience practicing criminal defense in Michigan to participate in one basic skills acquisition class in an out of state training program. Systems must pursue any financial aid available to fund attendance for an employee’s attendance at an out of state training program.

MIDC grant funding is not permitted for purchasing or leasing automobiles.

MIDC grant funding is not permitted for the cost of parking at an assigned work station unless reimbursement is required by the funding unit’s established local employment policies.

⁸ See State of Michigan LARA Out of State Travel Request Authorization form C-100.

Supplies and Services

Systems can include funding for supplies needed for trial, including demonstrative exhibits and clothing for defendants to wear during court proceedings.

Transcripts of proceedings prepared at the request of an indigent defendant can be included in the cost analysis.

Interpreter services sought by the defense to facilitate some out-of-court meetings between assigned counsel and clients or witnesses can be included in the cost analysis.

Funding needed by the defense to obtain documents through the Freedom of Information Act, or school or medical records, or similar materials, can be included in the cost analysis if it is directly related to representation in a pending criminal case in the trial court.

Systems using a nonprofit model for delivering indigent defense services can include funding for any required audit in the nonprofit cost analysis.

No funding shall be used to pay for restraints or monitoring services of an accused defendant.

Planning for Compliance with MIDC Approved Standards

Standard 1 – Training and Education

General Requirements

Michigan Indigent Defense Commission (MIDC) Standard 1 requires that attorneys shall annually complete at least twelve hours of continuing legal education. Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic multi-day (minimum of 16 hours) skills acquisition class. Time spent in skills training counts towards, and can satisfy, the annual CLE requirement.

Pursuant to MIDC Standard 1.D, system practices that require assigned counsel to subsidize mandatory training will not be approved. Training shall be funded through compliance plans submitted by the local delivery system or other mechanism that does not place a financial burden on assigned counsel.

Standard 1 is an annual training requirement for every attorney each calendar year. Participation in a basic skills acquisition course (skills training) counts towards the annual continuing legal education requirement.

In the grant management system, provide the **names and P#s of all attorneys** who will provide indigent defense in the year covered by the compliance plan. Further identify in that category those attorneys who have practiced criminal defense for two years or less.

All attorneys providing services in the system should be included in the compliance plan, regardless of whether the attorney practices in other systems. Funding for training and individual training requirements may vary by system. In the event of duplicate registration for a single event, the source of payment should default to the funding unit based on the address listed for the attorney in the bar journal. Deviation from

the default is allowed if doing so is necessary to meet the requirements of the standard.

In the plan and cost analysis, describe whether the training is part of the 12 hours of annual continuing legal education (CLE) and/or skills training for new lawyers.

Please see the MIDC's website at <https://michiganidc.gov/cle/> for more information.

Permissible Costs

For **new training programs**, identify the cost of set-up and implementation including personnel, contractors, equipment, supplies, and operating expenses including meals at a group rate. For **existing training programs**, identify the number of attorneys to be trained, the courses or programs that will be attended with a cost of registration/tuition (using a rate of \$30 per credit hour), travel, and other expenses incurred by the trainees. Attorneys will not be reimbursed at any rate for their time spent in or traveling to training sessions.

No printed materials will be funded if digital materials are provided for training purposes.

Memberships

For webinars, such as the National Association for Public Defense, use an annual rate of \$30/per criminal defense attorney for membership and access to programming.

For the Michigan State Appellate Defender Office's (Criminal Defense Resource Center) online resources, use an annual rate of \$50/per criminal defense attorney for membership and access to programming.

MIDC Grant funding will not be awarded for membership to the National Legal Aid and Defender Association (NLADA), the National Association for Criminal Defense Lawyers (NACDL), the Criminal Defense Attorneys of Michigan (CDAM), the Institute for Continuing Legal Education (ICLE), or local bar associations.

Communication and Plans for Reporting

Attorneys identified by the funding unit to represent adults charged with crimes in the particular system may receive communications from the MIDC's staff regarding training opportunities and requirements for compliance with Standard 1. The MIDC staff will work to efficiently coordinate the statewide roster of attorneys and assist with communicating progress towards compliance with the standard. All attorneys must complete their training and education requirements by December 31 of each calendar year to remain eligible to continue to receive assignments in the following compliance plan year.

Each system must provide a plan for reporting CLE attendance to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation of attendance must be submitted to the MIDC no later than 30 days after completion of the course(s). This documentation should be sent to LARA-MIDC-CLE@michigan.gov.

Standard 2 – Initial Interview

General Requirements

This standard requires that 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. Attorneys should be prepared to complete a voucher form for all assigned cases indicating time spent on the assignment, including when and where the initial interview occurred. Alternatively, systems must indicate a method for verifying timely interviews. Sample vouchers are available on the MIDC's website.

This standard further requires a confidential setting for these interviews in both the courthouse and jail. Upon request by an attorney, the system must accommodate the ability to pass legal materials between an attorney and an in-custody client.

Permissible Costs

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.

For all systems undergoing construction to create confidential space, a detail regarding progress on the project will be required quarterly.

If public defender offices need additional attorneys to comply with the initial interview standard, funding units may seek grant funds for personnel.

Other systems may need to change contracting or assigned counsel compensation policies. Funding units, using a contract or rotating assignment system, shall pay attorneys for the initial interview in all assigned criminal cases. Attorneys shall be compensated a reasonable fee for the initial interview, including mileage and travel expenses for

clients who are not in local custody. Confidential video visits are permissible for initial interviews with in-custody defendants.

Efficient use of technology (such as the use of Polycom systems) and existing space in courthouses and jails in lieu of construction projects is encouraged to ensure and facilitate confidential interview space. Equipment can be included in the cost analysis of the compliance plan.

Standard 3 – Investigation and Experts

General Requirements

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.

Funding units may seek grant funds to employ licensed investigators as needed to comply with Standard 3, and/or seek grant funds to contract with investigators or any expert witness identified as necessary to assist with the defense of an indigent client.

Non-assigned (i.e., retained, *pro bono*) counsel representing adult clients who become indigent during the course of the representation and who are in need of expert or investigative services may seek use of indigent defense funding for these resources from the system pursuant to case law⁹ and/or the local system’s policy.

Permissible Costs

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 expert¹⁰ 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

⁹ See, e.g., *People v. Kennedy*, 502 Mich. 206 (2018).

¹⁰The 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.

- Pharmacy/PharmD \$125/hr
- Information Technology Experts \$150/hr
- Ph.D./Licensed Doctor \$200/hr
- Medical Doctor \$250/hr
- MD with Specialty (e.g., Psychiatrist, Pathologist) \$300/hr

Unless there is a demonstrated need, 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)

All funding units must have an approved line item for using experts and investigators in the local court system. The funding unit should reimburse these service providers directly based upon a proper accounting of time spent during the grant reporting period. Systems should report whether an expert or investigator was requested, approved, or denied in a particular case to ensure compliance with the standard. The MIDC rates should be used unless a higher rate is specifically authorized by a system for the case. Experts and investigators should be reimbursed for travel related to their work on a case.

Standard 4 – Counsel at First Appearance and Other Critical Stages

General Requirements

Every system in Michigan is required to make an attorney available for an adult charged with a crime facing the loss of his or her liberty. 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. A “critical stage” is any proceeding involving the potential for loss of liberty.

This Standard does not prevent an adult charged with a crime from representing themselves during any proceeding, including the arraignment. All defendants should be given an opportunity to meet with counsel prior to an arraignment where liberty is at stake. Information about waiving counsel should be provided by the court system, preferably by counsel employed to meet this standard.

In virtually all systems, the attorney at the first appearance is not necessarily going to be the attorney appointed to the case. Attorneys providing this service should be paid consistent with the approved costs for these services.

Systems will be required to report specific information about every arraignment including the number of total arraignments and breakdown of representation in any of the following categories: retained counsel, assigned counsel, waiver of counsel by defendant, or counsel not present. Guilty pleas submitted to courts outside of the arraignment process (“counter” pleas or “plea by mail”) must be tracked and reported by the system. Systems that will not accept a guilty plea at arraignment and will issue personal bonds do not need to make an attorney available at the initial appearance before a magistrate or judge.

Permissible Costs

Funding Units with public defender systems may seek grant funds to hire defense attorneys to comply with the standard for counsel at first appearance.

Funding units using a contract or rotating assignment system shall pay attorneys for the first appearance in a criminal case. A flat-rate can be paid to an attorney to be available on an on-call basis; until the approval of Standard 8 providing more specific guidelines, counsel shall be paid a reasonable fee.

Where appropriate and where it will not unreasonably degrade the quality of representation, technology should be used to ensure the effective representation of indigent defendants. Attorneys may use telephone or video services to facilitate the appearance at arraignment.

In addition to all trial proceedings, funding under this standard can include defense attorney representation or participation in the following matters:

- Criminal contempt and/or show-cause hearings
- District to Circuit Court appeals
- Problem Solving Courts and Swift and Sure Sanctions Probation Programs
- Restitution Hearings
- Pre-Sentence Investigation Interviews
- **Early Probation Discharge**

MIDC grant funding shall not be used to compensate standby (or “advisory”) counsel when the defendant has invoked the constitutional right of self-representation.

Services Outside of Adult Criminal Case Representation

The MIDC is cognizant that other legal concerns often exist for indigent clients outside of the criminal trial court and supports local decisions to develop and use best-practice defense services for all those in need.

For example, a few local funding units employ attorneys within their public defender offices to represent youth in delinquency or other probate hearings; some employ administrators to manage the rosters of juvenile defense attorneys; others have considered partnering with local civil legal services to provide increased holistic defense.

Local systems should identify and delineate those costs if they have expanded their legal services to indigent clients outside of the scope of the MIDC Act or are considering such an expansion to ensure they are meeting their current grant contract agreements. The MIDC regional manager team can help systems implement best-practices while ensuring all contract agreements are upheld.

Standard 5 – Independence from the Judiciary

A managed assigned counsel system (hereafter, “MAC”) is a model that can be used either in coordination with the public defender office or alone to provide indigent defense services in communities at the trial level. This system has independence with oversight by a government-appointed or non-profit agency commission, or by the Executive Branch. MAC is an ideal system to guarantee participation of a vibrant private bar in the delivery of indigent defense.

As with a public defender office, a county or regional MAC can be a very good way to comply with the MIDC standards and best practices:

- MAC can coordinate a program to train attorneys to work on assigned cases;
- MAC can provide resources for prompt meetings with clients and condition participation on these meetings;
- MAC can coordinate contracting of investigators or experts, and even retain investigators on staff;
- MAC can specifically assign counsel at first appearance.

MAC could also comply with many proposed standards including qualifications and evaluations of assigned counsel by having a framework for evaluating the attorneys on the roster and setting requirements for different sorts of cases. MAC can enforce caseload limitations on roster attorneys and establish fair compensation if properly resourced.

As a best practice, systems using a MAC administration model should create a process for reviewing or appealing decisions of the MAC administrator **or appointing authority**.

The MIDC has approved answers to Frequently Asked Questions about the standard requiring independence from the judiciary attached as an appendix.

Standard for Determining Indigency and Contribution

Unless there is no possibility of incarceration upon conviction or after sentencing, a local funding unit should conduct an indigency assessment of anyone who may wish to have counsel appointed or who seeks access to public funding for things like experts and investigators.

A person should be screened for indigency as soon as reasonably possible after they make their request. Ideally, a person will be screened for indigency and, if eligible, have counsel appointed within 24 hours of making their request. If indigency screening cannot occur before a person's arraignment, the local funding unit should make counsel available for the limited purpose of providing representation at the arraignment unless an exception to Standard 4 applies.

The Indigency Standard does not require funding units to seek contribution or reimbursement.

The MIDC has approved answers to Frequently Asked Questions about indigency, contribution, and reimbursement attached as an appendix.

Compliance Plan Submission

Step 1

- Compliance Plans submitted to the MIDC through EGrAMS.

Step 2

- Plans logged in central log submission date tracked for compliance with statutory timeline for action by MIDC.

Step 3

- Plans reviewed by Regional Manager

Step 4

- Plans reviewed by Grant Manager

Step 5

- Plans reviewed by Senior Staff
 - Plans that require no additional review are forwarded to the Commission
 - Plans that require additional review are forwarded to a committee of Commissioners

Step 6

- Plans reviewed by the Commission
 - Plans disapproved shall be resubmitted within 60 days
 - After three submissions, dispute resolved by mediation

Compliance Reporting by Indigent Defense Systems

The contract executed between the MIDC and the local system is the primary source of information about specific reporting obligations. This portion of the guide is provided for the convenience of stakeholders seeking information about reporting.

Resources

Please consult the MIDC's website at <https://michiganidc.gov/grants/> for regularly updated information about reporting, webinars, checklists, and templates.

Distribution of Funding

The Department of Treasury has established a new fund within the local chart of accounts. The sole purpose of this fund shall be for accepting the grants funds from the MIDC and charging all plan-related costs to this fund. The system's "local share" must also be deposited in this fund during the course of the grant contract period, and no later than the end of the contract term.

Systems will work with the MIDC staff to finalize a budget consistent with the cost analysis approved by the MIDC. This process may require assignment of spending between state and local funding sources. Funding must only be used as set forth in the approved plan and cost analysis.

Systems will receive a contract from the MIDC upon approval of the system's compliance plan *and* cost analysis by the Commission. Once the contract is fully executed, the MIDC will distribute grants to the system consistent with the approved budget and as set forth in the system's approved plan. **Unless the contract provides otherwise,** the MIDC will distribute ~~50%~~ **25%** of the approved state grant within 15 days of the contract being executed by all parties. The timeframe for compliance with the approved plan will begin on the date of the initial distribution. Each system will submit a progress report describing compliance with the plan on a quarterly basis, together with a financial status report detailing expenses incurred that quarter **and a list of attorneys**

providing services for the local system. If it is determined that the total amount of funding awarded in the previous year's grant was not fully expended or that grant money was used for a purpose outside of the compliance plan, those funds must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts. MCL 780.993(15).

~~Dates for Distribution of MIDC Grant Funding~~

- ~~• Initial Advance of 50% of the state grant – Within 15 days of receipt of executed agreement~~
- ~~• 25% disbursement – May 15~~
- ~~• 25% disbursement – August 14 (final payment).~~

~~The above schedule of disbursement of funds is contingent after receipt of quarterly reporting as addressed in the grant contract.~~

Reporting Required

Financial Status Report (FSR)

Each system is required to provide a report on the expenses incurred for implementing the plan for indigent defense delivery. The **funding unit system must should use the MIDC's grant management system, EGrAMS, for reporting.** ~~a form provided by the MIDC to detail the total system costs and identify the source of funding: the local share, MIDC funding, or other sources (i.e., Michigan Department of Corrections¹¹).~~ The FSR must be supported with documentation for the expenses to be eligible for reimbursement. Receipts for purchases, payroll, documentation, and vouchers from direct service providers should be attached to the FSR. Systems with personnel must submit time sheet(s), time certification(s), or a time study with quarterly reporting when requested by MIDC staff or with any request by the system to modify the personnel position(s).

¹¹ Local funding units are required to report reimbursements received from the Michigan Department of Corrections for which funding is also provided through the MIDC grant as part of program income and report it quarterly or at the end of the fiscal year in the final quarterly report. See MIDC meeting minutes, April 2020.

Expenses are eligible for payment if incurred during the grant contract period (on or after October 1 of the grant contract year).

Systems should track all funding collected from defendants for the purpose of reimbursement of assigned counsel.

Collection of any program income must be reported in the unexpended balance form.

Compliance Plan Progress Report (PR)

A short program report detailing in narrative form the system's progress towards fully implementing the compliance plan is required quarterly. This report should complement the FSR and offer context about the expenses incurred during the specified timeframe.

The funding units will be asked for basic information in each report to ensure the MIDC has the appropriate points of contact and authorizing officials, as well as a list of all attorneys with P#s assigned by the system to represent indigent adults charged with crimes. Approved compliance plans addressed each standard individually, and reporting should track compliance with the standards according to the plan. The progress report will mirror this approach and collect information regarding new case filings, assignments to attorneys, and compliance with Standards 1, 2, 3, and 4 as set forth in the approved plan.

Due Dates for Reporting

- Initial FSR and compliance report for October 1 – December 31 due on January 31st
- 2nd FSR and compliance report for January 1 – March 31 due on April 30th
- 3rd FSR and compliance report for April 1 – June 30 – due on July 31st
- Final FSR and compliance report for July 1 – September 30 – due no later than October 31, together with a report of the unexpended balance in the account used for adult indigent criminal defense services.

Every system is required to annually submit a plan for compliance for the next state fiscal year during the timeframe and in the manner established by the MIDC.

Adjustments to Approved Plans or Budgets

The MIDC is mindful that many systems submitted a plan for compliance and cost analysis nearly one year prior to funding distribution. While adjustments to the cost analysis will be necessary in many instances, there should be no substantial changes to the delivery system method set forth in the plan itself without prior approval from the Michigan Indigent Defense Commission. A “substantial change” is one that alters the method of meeting the objectives of the standard(s) in the approved plan. For example, a system with an approved plan for a public defender office that would instead prefer to maintain a contract system would constitute a “substantial change” to the approved plan.

Any system seeking a substantial change to their **compliance plan** must contact their Regional Manager for guidance on that process, which will require a written request, justification for the change, and multi-level staff review prior to consideration by the Commission. Substantial changes to a compliance plan will not be recommended for approval to the Commission absent extraordinary circumstances.

Adjustments to a system’s approved **contract budget** must be communicated promptly to the Regional Manager. Once a cost analysis has been approved by the MIDC, the award total cannot increase, but adjustments within the award total can be allowed. Please contact your Regional Manager for guidance with budget adjustments. Budget adjustments will be processed with other quarterly reporting documents unless extraordinary circumstances require action sooner.

- Deviation allowance: If the adjustment involves redistributing less than 5% of the budget category total, (e.g., “equipment”), then the adjustment must be reported in the next quarterly FSA.
- A budget adjustment involving greater than 5% of the aggregate of all funding within a budget category requires prior written

approval by the MIDC Staff and must be reported to the MIDC as soon after the Grantee is aware of the necessity of the Budget adjustment and reported in the Grantee's quarterly report.

The system is required to use the MIDC's budget adjustment form for any budget adjustment request and must obtain approval of MIDC staff prior to making any changes to the contract budget.

All adjustments to the approved cost analysis will be reported to the MIDC during regularly scheduled meetings, or as requested by the Commission.

Evaluation of Plans

All systems will be reviewed for compliance with the MIDC's standards, the approved plan and the approved cost analysis. A sample rubric for evaluation is as follows:

STANDARD 1	TOTAL POSSIBLE POINTS
Has the attorney list been updated and submitted in the most recent quarter?	3
Has a process been established and implemented to pay for and confirm attorney training (including for new attorneys to complete skills training)?	3
<i>Is the system tracking and verifying CLE hours and discontinuing case assignments for attorneys who have not completed their CLE hours?</i>	<i>non-point question</i>
STANDARD 2	
Have confidential meeting spaces been established or have sufficient steps been taken toward this end?	
In holding facilities/jails	3
In courtrooms - out-of-custody clients	3
In courtrooms - in-custody clients	3
Are defense attorneys using the confidential meeting space?	3
Are attorneys being appointed and notified in a timely and effective fashion?	3
Is the system verifying invoices/other documents to ensure timely client interviews?	3
Are attorneys being paid for initial interviews?	3
Does the system have a process for managing attorney non-compliance and, if necessary, have they utilized this process?	3
STANDARD 3	
Is there a formal process for attorneys to seek funding for experts and investigators?	3
Have attorneys been notified of the process?	3
<i>Have any attorneys utilized this process?</i>	<i>non-point question</i>
Is a system in place to track requests, approvals and denials?	3
STANDARD 4	
Is there a process in place to ensure that every client has counsel or a valid waiver?	3
Is counsel being offered at all arraignments where an MCR 6.104(A) exception does not apply?	3
Is there a process in place to have counsel at all other critical stages?	3
Is counsel being offered at all other critical stages?	3
<i>Who is conducting the waiver of counsel for arraignment?</i>	<i>non-point</i>
<i>Have you observed the system encouraging waiver of counsel?</i>	<i>non-point</i>
<i>Is there an advice of rights for counterpleas and pleas by mail, and is the system collecting information on these?</i>	<i>non-point</i>
<i>Is there a process to provide contact information to the appointed attorney and the client after arraignment?</i>	<i>non-point</i>

STANDARD 5	
Are all case and docket assignments being managed by people who operate independently from the court?	3
Is the approval of requests for experts and investigators made independently from the court?	3
Is the approval of attorney payments made independently from the court?	3
REPORTING & FINANCIAL COMPLIANCE	
Have quarterly reports been submitted?	
Program Reports (Jonah)	Yes/No
FSRs (Rebecca)	Yes/No

COMMENTS:



MICHIGAN INDIGENT
DEFENSE COMMISSION

November 3, 2021

Dear Local Funding Units:

Last week, the Director of LARA signed the enclosed order giving final approval to the MIDC standard for determining indigency and contribution pursuant to MCL 780.985(4). This standard establishes a test for eligibility for defense funding and provides guidance for recouping the costs of a defense. The full text of the standard is on our website, <https://michiganidc.gov/standards/>.

As required by MCL 780.993(3), indigent criminal defense systems must submit a plan for compliance with a minimum standard “no later than 180 days after” approval by the department. A plan for compliance with the indigency screening standard will be due to the MIDC by April 26, 2022. Submission of a plan for compliance with this standard will correspond with the annual compliance planning cycle for all approved standards. Your Regional Managers will be in touch to support planning efforts. Please check our website regularly for updates and materials related to compliance planning.

Please do not hesitate to contact me if you have questions about this letter or your Regional Manager if you have questions about implementation or planning.

Please be well.

Sincerely,

Marla McCowan, Interim Executive Director
Michigan Indigent Defense Commission

MIDC FY23 COMPLIANCE PLAN**Submitter Information**

Funding Unit(s)/System Name:

Submitted By (include name, title, email address and phone number):

Date:

Signature: _____

Please identify the following points of contact (include name, title, email address and phone number):

Authorizing official who will sign the contract:

Mailing address for authorizing signatory:

Primary point of contact for implementation and reporting:

Financial point of contact:

Please identify any other person in the system who should receive communications from MIDC about compliance planning and reporting, including name, title, and email address:

Delivery System Model

1. What type of indigent defense delivery system do you have currently? (indicate all that apply):

- Public Defender Office (county employees)
- Public Defender Office (non-profit/vendor model)
- Managed Assigned Counsel System

Name of MAC Attorney Manager and P#:

- Assigned Counsel System
- Contract Defender System
- Regionalized system or coordination with other trial court funding units

If you are unsure about your type of indigent defense delivery system, more information can be found in MIDC's report entitled *Delivery System Reform Models* (2016), posted here: <https://michiganidc.gov/resources>. Questions can also be directed to your MIDC Regional Manager.

2. Are you proposing to change your type of indigent defense delivery system for next year? Please respond Yes or No.

3. If you are changing your indigent defense delivery system, what model do you plan to use next year?

MIDC FY23 COMPLIANCE PLAN

Standard 1

Training of Attorneys

4. Number of attorneys who accept adult criminal defense assignments as of October 1, 2021 _____
5. Number of attorneys with less than 2 years of Michigan criminal defense experience as of October 1, 2021 _____

In the cost analysis, please include a list of names and P#s of all the attorneys who accept adult criminal defense case assignments in your system, including conflict counsel and counsel for youths charged as adults.

6. What is your plan for training attorneys with less than 2 years of Michigan criminal defense experience?
7. Please describe your system's training plan, including how compliance will be tracked for reporting requirements:
8. If an attorney does not complete the required training, how will the system address the noncompliance?
9. Any changes in your *funding needs* from the prior year for Standard 1? Please respond Yes or No.

If yes, please describe in the cost analysis.

Standard 2

Initial Client Interviews

10. The MIDC Standards now require the selection and assignments of attorneys to be done independently from the judiciary. How and when are defense attorneys notified of new assignments?
11. How are you verifying that in-custody attorney client interviews occur within three business days?
12. How are you verifying attorneys' introductory communications with out-of-custody clients?
13. How are you compensating attorneys for conducting initial interviews? Please include whether you intend to compensate attorneys differently for in-custody and out-of-custody interviews.
14. Any changes in your *funding needs* from the prior year for Initial Interviews? Please respond Yes or No.

If yes, please describe in the cost analysis.

MIDC FY23 COMPLIANCE PLAN

Confidential Meeting Spaces

15. How many confidential meeting spaces are in the jail?
16. What is the TOTAL amount of confidential meeting spaces in the courthouse?
17. How many confidential meeting spaces in the courthouse are for *in-custody clients*? Please describe these spaces.
18. How many confidential meeting spaces in the courthouse are for *out-of-custody clients*? Please describe these spaces.
19. Any changes from the prior year's *compliance plan* for your confidential meeting spaces? Please respond Yes or No.
- If Yes, please describe the proposed changes.
20. Any changes from the prior year's *funding needs* for confidential meeting spaces? Please respond Yes or No.
- If yes, please describe in the cost analysis.**

Standard 3

Experts and Investigators

21. The MIDC Standards now require approval of expert and investigative assistance to be independent from the judiciary. Describe the process of how attorneys request expert witness assistance for their indigent clients:
22. Any change from the prior year's process to request expert witness assistance? Please respond Yes or No.
- If yes, please explain the change:
23. Describe the process of how attorneys request investigative assistance:
24. Any change from the prior year's process to request investigative assistance? Please respond Yes or No.
- If yes, please explain the change:
25. How are attorney requests (whether approved or denied) for experts and investigators tracked by the system? Please include approved and denied requests.
26. Any change from the prior year's *funding needs* for Standard 3? Please respond Yes or No.

If yes, please describe in the cost analysis.

Standard 4

Counsel at First Appearance and Other Critical Stages

27. The MIDC Standards now require the selection and assignments of attorneys to be done independently from the judiciary. How are you providing counsel at first appearance and all arraignments? Please provide detail for circuit and district court coverage.
28. How are you providing counsel at all other critical stages? Please provide details:
29. How are you compensating attorneys for Standard 4? Please provide detail for compensating counsel at first appearance and compensating counsel at all other critical stages.
30. Do you have a prison in your County? How is counsel provided to people charged with crimes while incarcerated in the prison? Do you seek reimbursement for the cost of counsel from the Michigan Department of Corrections?
31. Are there or will there be any misdemeanor cases where your court accepts pleas without the defendant appearing before a magistrate or a judge? For example, pleas by mail, over the counter pleas, pleas online, etc. Please answer Yes or No.
32. Describe how counsel is offered to a defendant making a plea who does not appear before a magistrate or judge:
33. Any change from the prior year's *attorney compensation* for Standard 4? Please respond Yes or No.
If yes, please describe in the cost analysis.
34. Any change from the prior year's *funding needs* for Standard 4? Please respond Yes or No. **If yes, please describe in the cost analysis.**

Standard 5

The MIDC Standards now require independence from the court including the selection and assignment of attorneys, attorney compensation and approval of requests for expert and investigative assistance.

35. How will attorneys be selected to provide adult indigent criminal defense services in your indigent defense system? Please describe any eligibility requirements needed by the attorneys as well as the selection process:
36. Will the selection process be facilitated by a committee of stakeholders? If so, please list the titles of participating officials, agencies, or departments as appropriate.
37. Who will approve an attorney's eligibility to receive assigned cases?
38. Who will assign work to the attorneys in the indigent defense system? Please include the person's name, title, employer and/or supervisor.
39. Who will review and approve attorney billing?
40. Who will approve requests for expert and investigative assistance?
41. Who will review and approve expert and investigative billing?
42. What is your appeal process to resolve any potential conflicts between the assigned attorney and the person(s) assigning casework?
43. What is your appeal process to resolve any potential conflicts between the assigned attorney and the person(s) or reviewing/approving billing?

MIDC FY23 COMPLIANCE PLAN

44. What is your appeal process to resolve denied or partially denied requests for expert or investigative assistance?

Determining Indigency, Contribution, Reimbursement

45. Will judges and/or court staff conduct all indigency screening in every proceeding? Please answer Yes or No.

If no, who will screen for indigency?

Is this screener the Appointing Authority?

If the screener is not the Appointing Authority, does the Appointing Authority oversee the screening process?

Briefly describe your process for screening for indigency.

What is the process for appealing a determination that a person does not qualify for appointed counsel?

46. Are you designating an Appointing Authority to conduct indigency screening for purposes of MCR 6.005(B)?

47. In cases where contribution is appropriate, who is going to make the request with the court for contribution?

48. In cases where contribution is appropriate, what is your process for determining the amount that a person should contribute during the pendency of the case to their defense?

49. What is your process for obtaining contribution?

50. What is the process for challenging a request for contribution?

Personnel

In the cost analysis, please provide detail about all personnel employed by the funding unit. This should include DIRECT SERVICE PROVIDERS (Public Defender Chief, Deputy Chief, Assistant Defenders, and staff of the defender office employed by the system) as well as ANCILLARY STAFF (court clerks, sheriff employees, etc.)

Ancillary Staff

51. In limited circumstances, the MIDC can fund some other system staffing needs if required to implement one of the MIDC standards. These requests are evaluated each year.

52. Do you have any ancillary staff? Please answer Yes or No.

If yes, what standard(s) or reporting needs do they meet?

If yes, how are you tracking time for ancillary staff?

53. For existing ancillary staff, are there any personnel positions/hours eliminated, reduced or increased from the prior year? Please answer Yes or No.

If yes, please explain in the cost analysis.

54. Are any additional ancillary staff positions or hours requested from the prior year? Please answer Yes or No.

If yes, please explain in the cost analysis.

MIDC FY23 COMPLIANCE PLAN**Reimbursement Costs for Creating Plan**

An indigent criminal defense system may submit to the MIDC an estimate of the cost of developing a plan and cost analysis for implementing the plan under MCL 780.993(2). Please attach documentation of planning time for **FY23**, if seeking reimbursement under this provision.

Are you requesting reimbursement of planning costs? Yes | No

If yes, do you have receipts showing that non-funding unit employees have been paid?

Yes | No

What is the amount you are seeking in reimbursement? \$ _____

Reminders

- ✓ You must also complete a cost analysis.
- ✓ In order to complete your application, you must **update or confirm the** list of the attorneys providing services with P numbers.
- ✓ If applicable, you must submit documentation supporting your request under MCL 780.993(2) for reimbursement for the cost of compliance planning.

Indigency Standard (Page 1)

45. Will judges and/or court staff conduct all indigency screening in every proceeding? Please answer Yes or No. Yes No

Indigency Standard (Page 2)

46. Are you designating an Appointing Authority to conduct indigency screening for purposes of MCR 6.005(B)?
Please answer Yes or No. Yes No

47. In cases where contribution is appropriate, who is going to make requests for contribution?

An attorney from the PD Office will make any requests for contribution.

48. In cases where contribution is appropriate, what is your process for determining the amount that a person should contribute during the pendency of the case to their defense?

An attorney at the PD Office will review the financial information submitted on MC 222, as well as any other financial information the PD Office receives.

- 1) If the defendant has sufficient income, and the PD Office elects to seek contribution in a particular case, the PD Office will request contribution in an amount that does not exceed 25% of the difference between the defendant's monthly net income and their current monthly expenses.
- 2) If the defendant has nonexempt funds, and the PD Office elects to seek contribution in a particular case, the PD Office will ask that defendant pay up to 25% of the nonexempt funds in a lump sum payment.

The PD Office will not seek contribution from a fully indigent person.

49. What is your process for obtaining contribution?

An attorney from the PD Office will file a request for a contribution order with the court directing the defendant to either pay a specific amount each month or a single lump sum payment.

50. What is the process for challenging a request for contribution?

The PD Office will provide the defendant with a copy of its request for contribution by mail and email, if available, along with a form that the defendant can file with the court to challenge the amount requested.

Indigency Standard (Page 1)

45. Will judges and/or court staff conduct all indigency screening in every proceeding? Please answer Yes or No. Yes No

If no, who will screen for indigency? [Able T. Lawyer, MACC](#)

Is this screener the Appointing Authority?
Please answer Yes or No. Yes No

Briefly describe your process for screening for indigency.

[The court will transmit MC 222 \(Request for Appointed Counsel\) to the MACC. The MACC will review the request within one business day. If the defendant is indigent or partially indigent, the MACC will also appoint counsel within this timeframe.](#)

What is the process for appealing a determination that a person does not qualify for appointed counsel?

[If the MACC determines that a defendant does not qualify for counsel, the MACC will provide them with a written decision explaining the denial by mail and email, if available, and give the person a form that the person could use to make a written request with the court for review. In addition, the MACC will file a copy of his decision with the court.](#)

Indigency Standard (Page 2)

46. Are you designating an Appointing Authority to conduct indigency screening for purposes of MCR 6.005(B)?
Please answer Yes or No. Yes No

47. In cases where contribution is appropriate, who is going to make requests for contribution?

[The MACC will make any requests for contribution.](#)

48. In cases where contribution is appropriate, what is your process for determining the amount that a person should contribute during the pendency of the case to their defense?

[The MACC will review the financial information submitted on MC 222, as well as any other financial information the MACC receives.](#)

- [1\) If the defendant has sufficient income, and the MACC elects to seek contribution in a particular case, the MACC will request contribution in an](#)

- amount that does not exceed 25% of the difference between the defendant's monthly net income and their current monthly expenses.
- 2) If the defendant has nonexempt funds, and the MACC elects to seek contribution in a particular case, the MACC will ask that defendant pay up to 25% of the nonexempt funds in a lump sum payment.
The MACC will not seek contribution from a fully indigent person.

49. What is your process for obtaining contribution?

The MACC will file a request for a contribution order with the court directing the defendant to either pay a specific amount each month or a single lump sum payment.

50. What is the process for challenging a request for contribution?

The MACC will provide the defendant with a copy of its request for contribution by mail and email, if available, along with a form that the defendant can file with the court to challenge the amount requested.

Indigency Standard (Page 1)

45. Will judges and/or court staff conduct all indigency screening in every proceeding? Please answer Yes or No. Yes No

If no, who will screen for indigency? [Victoria Justice, Indigency Analyst—Best County PD Office](#)

Is this screener the Appointing Authority?
Please answer Yes or No. Yes No

Briefly describe your process for screening for indigency.

The court will transmit MC 222 (Request for Appointed Counsel) to the PD Office. The Indigency Analyst will review the request within one business day and submit approved requests to the Appointing Authority for appointment of counsel on that same day.

What is the process for appealing a determination that a person does not qualify for appointed counsel?

If the Indigency Analyst determines that a defendant does not qualify for counsel, the Indigency Analyst will provide them with a written decision on behalf of the PD Office explaining the denial by mail and email, if available, and give the person a form that the person could use to make a written request with the court for review. In addition, the PD Office will file a copy of the decision with the court.

Indigency Standard (Page 2)

46. Are you designating an Appointing Authority to conduct indigency screening for purposes of MCR 6.005(B)?
Please answer Yes or No. Yes No

47. In cases where contribution is appropriate, who is going to make requests for contribution?

[An attorney from the PD Office will make any requests for contribution.](#)

48. In cases where contribution is appropriate, what is your process for determining the amount that a person should contribute during the pendency of the case to their defense?

[If the defendant appears to have sufficient income or funds, the Indigency Analyst will calculate an estimated contribution amount. An attorney at the PD Office will review the estimate, the financial information submitted on MC 222, as well as any other financial information the PD Office receives.](#)

- 1) If the defendant has sufficient income, and the PD Office elects to seek contribution in a particular case, the PD Office will request contribution in an amount that does not exceed 25% of the difference between the defendant's monthly net income and their current monthly expenses.
 - 2) If the defendant has nonexempt funds, and the PD Office elects to seek contribution in a particular case, the PD Office will ask that defendant pay up to 25% of the nonexempt funds in a lump sum payment.
- The PD Office will not seek contribution from a fully indigent person.

49. What is your process for obtaining contribution?

An attorney from the PD Office will file a request for a contribution order with the court directing the defendant to either pay a specific amount each month or a single lump sum payment.

50. What is the process for challenging a request for contribution?

The PD Office will provide the defendant with a copy of its request for contribution by mail and email, if available, along with a form that the defendant can file with the court to challenge the amount requested.



MICHIGAN INDIGENT DEFENSE COMMISSION

Frequently Asked Questions about the Indigency Standard

In an effort to assist local funding units with planning and implementation of the Indigency Standard, the MIDC offers the following answers to frequently asked questions about compliance with the standard. The approved standard contains the requirements by the Commission and is the primary resource for planning. The standard should be referred to for full context of excerpted materials in this resource. Please see the MIDC's website at <https://michiganidc.gov/standards/> for more information.

Screening

When should a person be screened for indigency?

A person should be screened for indigency as soon as reasonably possible after they make their request. Ideally, a person will be screened for indigency and, if eligible, have counsel appointed within 24 hours of making their request. If indigency screening cannot occur before a person's arraignment, the local funding unit should make counsel available for the limited purpose of providing representation at the arraignment unless an exception to Standard 4 applies.

Does the local funding unit have to "take over" screening for indigency from the judiciary?

No. A local funding unit can elect to allow the trial court to continue screening for indigency as part of its compliance plan. MCL 780.991(3)(a).

If a local funding unit is not assuming the responsibility for indigency screening, how does the Indigency Standard apply?

In addition to providing information about how to determine indigency, the standard offers directives concerning contribution and guidance on seeking reimbursement.

If the local funding unit decides to take over indigency screening from the judiciary, does everyone screening for indigency have to be an attorney?

No. The Indigency Standard provides that “a local funding unit can designate the individual(s) or entity of its choice to review applications for the appointment of counsel provided that they agree to comply with all applicable MIDC Standards and policies, and they agree to take adequate measures to safeguard the sensitive nature of the information disclosed during the application process.” The local funding unit’s appointing authority, however, is ultimately responsible for overseeing the local funding unit’s indigency determination process, and an appointing authority must be a licensed Michigan attorney in good standing.

Who should be screened for indigency?

Unless there is no possibility of incarceration upon conviction or after sentencing, a local funding unit should conduct an indigency assessment of anyone who may wish to have counsel appointed or who seeks access to public funding for things like experts and investigators.

Does the ability to post bond make a person ineligible for appointed counsel?

No. Since MCR 6.005’s 1989 adoption of 1 ABA Standards for Criminal Justice (2d ed), Standard 5-6.1, Michigan has recognized that counsel should not be denied simply because a person can post, or has posted, bond.

Is it possible for a person with retained counsel to be indigent?

Yes. A person with retained counsel is not prohibited from seeking access to public funds for things like experts and investigators.

Does the fact that a person earns more than 200% of the federal poverty guideline automatically disqualify them for appointed counsel?

No. As with all people who are not presumed indigent, the screener should consider whether the person can obtain competent, qualified legal representation without substantial financial hardship to themselves or to their dependents.

Does the fact that a person earns less than 200% of the federal poverty guideline automatically qualify them for appointed counsel?

No. There are a number of factors, like earning less than 200% of the federal poverty guideline, which create a presumption of indigency. But this presumption is rebuttable. Accordingly, if a person has sufficient nonexempt assets that could be used to retain counsel, the person does not qualify for appointed counsel.

Is there any income or asset threshold that would automatically disqualify someone from being indigent?

No. Determining indigency requires a careful examination of every person's unique circumstances. If a charge is serious enough, a person with substantial income and/or assets might be unable to pay for all of their reasonably anticipated defense costs—thus making them partially indigent. Similarly, a person might have substantial income and/or assets but be unable to access them because, for example, they are subject to a conservatorship.

How should a screener handle someone who “works under the table”?

Many people have unreliable income because they work for cash, do odd jobs, or are incorrectly classified as independent contractors. If a person does not have steady income, the person should state an estimated monthly income based on the person's average monthly income for the past 12 months unless there is a good reason for not doing so.

Similarly, many people are unable to provide financial records for a variety of reasons. The Indigency Standard does not require a screener to verify a person's financial information if the person has provided the information under oath or affirmation. No one should be denied counsel simply because they failed to keep sufficient financial records to document their poverty.

Does the Indigency Standard require defense counsel to investigate and report on their client's financial status?

No. The Indigency Standard does not impose a duty on defense counsel to verify, correct, or update their client's financial information. Instead, the Indigency Standard makes clear that the duty to correct and update financial information lies solely with the client. In addition, information concerning the client's finances may, in some cases, be protected by the attorney-client privilege and/or the attorney's duty of confidentiality.

Contribution and Reimbursement

How does contribution differ from reimbursement?

Contribution and reimbursement are similar in that they both relate to the recoupment of expenses. Contribution, however, relates to funds ordered to be paid during the term of the attorney's appointment. Reimbursement relates to funds ordered to be paid after the term of the attorney's appointment—typically after sentencing.

Contribution

Does the Indigency Standard require the local funding unit to seek contribution?

No, the Indigency Standard does not require local funding units to seek contribution.

What should a local funding unit do if it wants contribution?

The local funding unit should first confirm that the person has sufficient nonexempt funds and/or income to allow the person to pay contribution by using the formula provided in the Indigency Standard. Assuming that the person is able to pay contribution, the local funding unit should ask the court to enter a contribution order.

If a person is ordered to pay contribution, where do they make their payments?

Like reimbursement payments, contribution payments are made to the court.

How is a contribution order enforced?

If a person who has been ordered to pay contribution fails to make a payment, the local funding unit can seek a wage assignment order. The Indigency Standard does not require a local funding unit to seek enforcement of an order for contribution and a local funding unit should not seek enforcement if doing so will impair the attorney-client relationship or the local funding unit knows that the person has good cause for failing to pay. Indeed, the local funding unit should adjust the amount and/or timing of contribution payments as necessary to avoid causing a substantial financial hardship.

Reimbursement

Should a local funding unit seek reimbursement for defense costs from a fully indigent person?

No. Although a court does not have to consider a person's ability to pay when assessing costs, Lt. Governor Gilchrist has pointed out that "[t]rying to collect defense costs from people who have no ability to pay creates more problems than it solves."¹ When it appears that a person has no meaningful ability to pay, a local funding unit should not seek reimbursement.

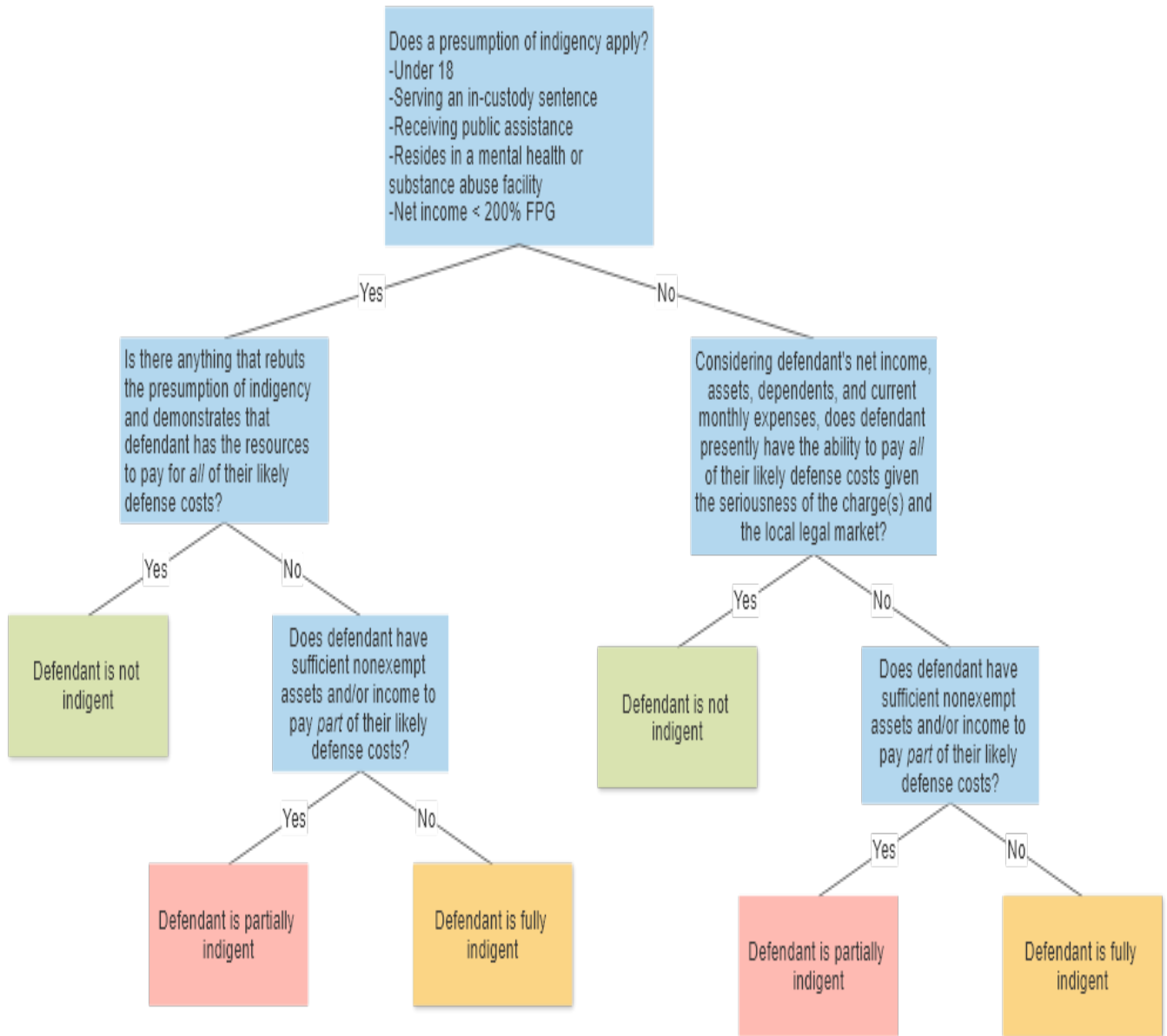
Challenging Indigency and Contribution Determinations

What should the process look like for appealing the local funding unit's denial of a request for appointment counsel or its calculation of a contribution amount?

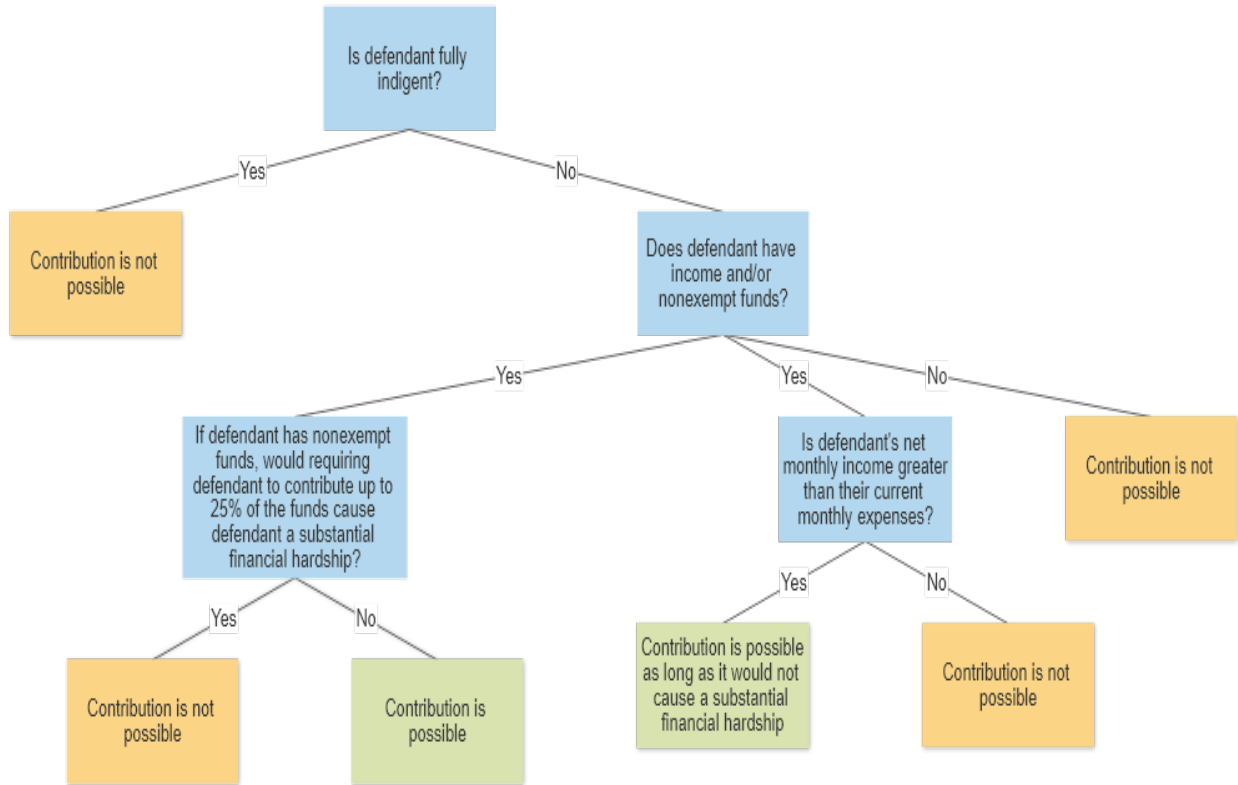
Although some decisions by an appointing authority are subject to administrative review, decisions concerning whether a person is fully or partially indigent and whether a person should pay contribution are subject to "prompt judicial review." MCL 780.991(3)(e) and (f). If an appointing authority is denying a request for counsel, the appointing authority must provide a copy of the Request for Review of Appointing Authority Determination form with the denial of the request for appointed counsel.

¹ Press Release, Michigan Department of Licensing and Regulatory Affairs, LARA Director Signs New Indigent Defense Standard, Establishes Test for Eligibility for Defense Funding and Provides Guidance for Recouping Costs of Defense (Oct. 28, 2021), <https://www.michigan.gov/lara/0,4601,7-154-11472-571483--,00.html>.

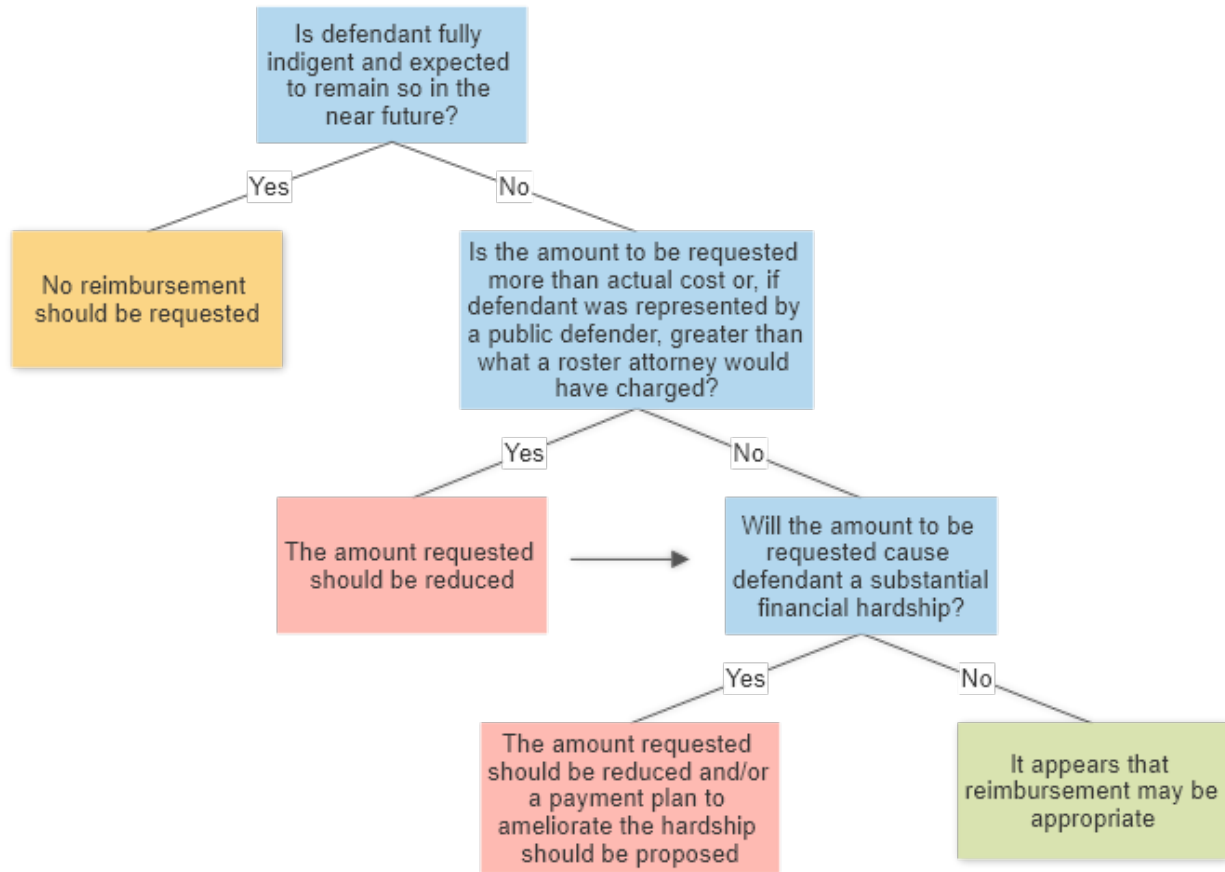
Indigency Determination Decision Tree



Contribution Decision Tree



Reimbursement Decision Tree





MICHIGAN INDIGENT
DEFENSE COMMISSION

February 1, 2022

City Manager Edward Klobucher
Hazel Park City Hall
111 East Nine Mile Road
Hazel Park, MI 48030
Also sent via email: eklobucher@hazelpark.org

RE: Notice of Noncompliance

The MIDC approved the implementation of a Compliance Resolution Process at its June 15, 2021 Commission Meeting. This process is designed to officially identify, track, and report all noncompliance issues to Funding Units/Indigent Defense Systems, MIDC Staff, and the MIDC Commission.

This notice is to advise that a Compliance Resolution Process is being initiated for the following reasons:

1. Failure to provide FY21 Quarter 4 FSR due on October 31, 2021;
2. Failure to provide FY21 Quarter 4 PR due on October 31, 2021;
3. Failure to provide FY21 Unexpended Funds Report due on October 31, 2021; and
4. Failure to provide clarification and documentation concerning FY21 personnel expenditures.

Hazel Park's obligation to maintain records, submit reports, and provide supporting documentation can be found in paragraphs 1.4, 1.5, and 2.7 of Grant Contract 2021-124 and MCL 780.993(14) and (15).

The MIDC's Standards and all information covering our grants can be found on our website, www.michiganidc.gov.

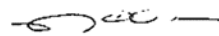
Mr. Edward Klobucher

Page Two

You have 15 days from the date of this notification to respond indicating receipt of this notice and provide an initial response to the noncompliance issues identified in this notice.

You have until March 3, 2022, to resolve the compliance issues. Please direct all communication to your Regional Manager, Nicole Smithson, with a copy to me. Additional time to resolve the issue(s) may be approved by your Regional Manager if appropriate. Once the compliance issue is resolved, the MIDC shall notify all the parties of the resolution.

Sincerely,



Marla R. McCowan
Deputy Director

Cc: Laci Christianson, finance@hazelpark.org



MICHIGAN INDIGENT
DEFENSE COMMISSION

February 1, 2022

Patrick Wimberly
Mayor
26215 Trowbridge
Inkster, Michigan 48141
Also sent via email pwimberly@cityofinkster.com

RE: Notice of Noncompliance

The MIDC approved the implementation of a Compliance Resolution Process at its June 15, 2021 Commission Meeting. This process is designed to officially identify, track, and report all noncompliance issues to Funding Units/Indigent Defense Systems, MIDC Staff, and the MIDC Commission.

This notice is to advise that a Compliance Resolution Process is being initiated for the following reasons:

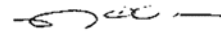
1. Failure to provide FY20 Amended Unexpended Balance Report – amended to reflect the attorney fees that were charged back to the grant due to incorrect billing practices,
2. Failure to provide FY21 Quarter 1 FSR due on January 31, 2021,
3. Failure to provide FY21 Quarter 2 FSR due on April 30, 2021,
4. Failure to provide FY21 Quarter 3 FSR due on July 31, 2021,
5. Failure to provide FY21 Quarter 4 FSR due on October 31, 2021,
6. Failure to provide FY21 Quarter 4 PR due on October 31, 2021, and
7. Failure to provide FY21 Unexpended Funds Report due on October 31, 2021.

The MIDC's Standards and all information covering our grants can be found on our website, www.michiganidc.gov.

You have 15 days from the date of this notification to respond indicating receipt of this notice and provide an initial response to the noncompliance issues identified in this notice.

You have until March 3, 2022, to resolve the compliance issues. Please direct all communication to your Regional Manager, Kelly McDoniel. Additional time to resolve the issue(s) may be approved by your Regional Manager if appropriate. Once the compliance issue is resolved, the MIDC shall notify all the parties of the resolution.

Sincerely,



Marla R. McCowan
Deputy Director

Cc:

Daryl Greene, dgreene@cityofinkster.com

Tracey Ann Jennings, tjennings@cityofinkster.com

NORTH COAST LEGAL, PLC



Project Proposal

Prepared for: Barbara Klimaszewski, MIDC Regional Manager

Prepared by: Michael C. Naughton

January 26, 2022

NORTH COAST LEGAL, PLC

SUMMARY

Objectives

Engage stakeholders in approximately 35 counties in central, northern lower peninsula and upper peninsula of Michigan on an MIDC program to help import criminal defense attorneys to rural counties in need of outside defense counsel.

Goals

Meet with and create relationships with judges, criminal defense attorneys, public defenders' offices, prosecuting attorneys, county administrators, MAC administrators, and other interested stakeholders.

Project Outline

Conduct in-person and remote meetings with stakeholders in a territory spanning two time zones.

- Discuss caseloads with current roster of public defenders and appointed criminal defense attorneys;
 - Discuss caseloads requiring additional defense attorneys with district and circuit judges;
 - Discuss indigent defense attorney population in these rural communities with stakeholders;
 - Determine if there is a need for outside attorneys to be imported into a county on a case-by-case basis;
 - Discuss ways that outside attorneys may be able to remotely access court proceedings;
 - Determine the breadth and scope of technology that may be needed by outside attorneys to access a remote county circuit court;
 - Determine the types of cases that the counties are experiencing that may require more outside attorneys (i.e. an increase in violent crimes, multi-defendant matters, drug related crimes);
 - Investigate and consider any other variables that may arise in order to make the project successful;
 - Meet with MIDC staff, administrators and the Commission to investigate and propose what resources and additional staff that may be required to administer this project; and
 - Prepare a final report and present findings of the report to the MIDC.
-

NORTH COAST LEGAL, PLC

BUDGET

This budget considers time to travel, meetings and an approximation of hotel stays

My hourly rate is \$275.00 but I have based this estimation on a reduced rate of \$200.00 per hour. This estimation may be adjusted based on the amount of remote meetings held, which will decrease the travel time.

My office is located in Traverse City. Some locations, such as Houghton, Baraga, Gogebic and Iron counties are more than 6 hours away. Other locations such as Kalkaska, Otsego, Wexford and Crawford counties are a half hour to an hour away. It is anticipated that some personal meetings will be required in order to forge relationships with stakeholders and investigate what may be required to launch this project successfully. Additionally, it is anticipated that I would hold meetings with MIDC staff, administrators and the Commission to discuss what resources and additional staff would be required to administer this project.

Description	Quantity	Unit Price	Cost
Travel time (hours)	125	\$200	\$25,000
Meeting time and preparation (hours)	100	\$200	\$20,000
Lodging (hotel stays)	20	\$150	\$3,000
Meet with MIDC staff to discuss what resources and staff will be necessary to take to administer this project in rural areas	25	\$200	\$5,000
Preparation and presentation of report to MIDC (hours)	25	\$200	\$5,000
Total			\$58,000

**Special Assignment Project
Budget Estimates
January 26, 2022**

<u>Budget Category</u>	<u>Total</u>
<u>Contracts for Attorneys</u>	
Goal is 15 special assignment attorneys \$150/hr x 184 hrs per case x 25 cases	\$690,000.00
Contract attorney to conduct stakeholder meetings in rural areas experiencing attorney shortages in Northern and Mid Michigan *See attached project proposal	\$ 58,000.00
<u>Travel and Training</u>	
(assumes a fiduciary that uses IRS rates)	
Mileage 1000 RT miles x \$.585/mile x 150 trips	\$ 87,750.00
Meals \$46 per day (\$11/\$12/\$23)	\$ 10,000.00
Lodging \$150/night	\$ 30,000.00
Flights	\$ 5000.00
Rental Cars	\$ 5000.00
<u>Experts and Investigators</u>	\$ 50,000.00
<u>Supplies and Services</u>	
Printing, postage, transcripts, exhibits	\$ 20,000.00
<u>Other</u>	
Administrative costs to funding unit	<u>\$ 95,575.00</u>
	\$1,051,325.00

To: Michigan Indigent Defense Commission

**From: Marla R. McCowan
Deputy Director/Director of Training**

**Re: Compliance Planning and Costs:
FY21 final reporting; FY22 status and recommendations**

Date: February 9, 2022

I. FY21 Funding Distribution Update; Q4 Reporting

A. Overview

As of the April 2021 meeting, all 120 systems have had their plans and cost analyses approved, contracts were distributed to those systems, and all systems have fully executed contracts in place. All received the final distribution of funding in August unless the distribution exceeded the funds on deposit with the system or we were awaiting financial reporting from the system. Wayne County's contract was amended in September 2021 to reflect the mediation settlement and an additional payment was distributed to the system in October 2021.

	MIDC Funding	Local Share	Total System Costs
FY 2019	\$86,722,179.85	\$37,963,396.67 ¹	\$124,685,576.52
FY 2020	\$117,424,880.47	\$38,523,883.90	\$157,698,982.46
FY 2021	\$ 129,127,391.54	\$38,486,171.32	\$167,613,562.86

¹ The annual inflationary increase described in MCL 780.983(i) is calculated from the FY2019 local share.

The total system cost, local share, and state grant funds are listed for each system for each fiscal year and can be found on our grants page, <https://michiganidc.gov/grants/>.

1. System Reporting - Progress Towards Compliance

Staff received the fourth quarter reporting from systems for FY21 (covering July 1, 2021 – September 30, 2021) at the end of October. The reporting was composed of:

- A **program report**, detailing the progress towards compliance with the approved plan. All program reports are currently submitted online through a survey-type of system for ease in submitting, receiving, and organizing the information provided.
- A **financial status report**, in the format approved by the Commission, to provide information regarding the spending on indigent defense between July 1, 2021 – September 30, 2021.
- A **budget adjustment request**, if applicable, to accommodate necessary changes to the line items without exceeding the approved total grant award.
- A **list of attorneys** providing services in the system, including full name and P#, to track progress on continuing legal education.
- The **actual balance of the funds** in the account as of September 30, 2021, used for all spending on adult indigent criminal defense services, due no later than October 31, 2021. See the MIDC Act, MCL 780.993(15).

The MIDC staff worked to simplify the reporting process and created a series of short web-based tutorials to provide systems with guidance on completing the necessary reporting documents. The tutorials, along with a number of resources for reporting, can be found on our grants page at www.michiganidc.gov/grants.

2. Notice of Noncompliance

The MIDC approved the implementation of a Compliance Resolution Process at its June 15, 2021 Commission Meeting. This process is designed to officially identify, track, and report all noncompliance issues to Funding Units/Indigent Defense Systems, MIDC Staff, and the MIDC Commission.

a. City of Hazel Park

On February 1, 2022, notice advising that the Compliance Resolution Process is being initiated was sent to the funding unit via U.S. Mail and electronic mail for the following reasons:

1. Failure to provide FY21 Quarter 4 FSR due on October 31, 2021;
2. Failure to provide FY21 Quarter 4 PR due on October 31, 2021;
3. Failure to provide FY21 Unexpended Funds Report due on October 31, 2021; and
4. Failure to provide clarification and documentation concerning FY21 personnel expenditures.

b. City of Inkster

On February 1, 2022, notice advising that the Compliance Resolution Process is being initiated was sent to the funding unit via U.S. Mail and electronic mail for the following reasons:

1. Failure to provide FY20 Amended Unexpended Balance Report – amendment needed to reflect the attorney fees that were charged back to the grant due to incorrect billing practices;
2. Failure to provide FY21 Quarter 1 FSR due on January 31, 2021;

3. Failure to provide FY21 Quarter 2 FSR due on April 30, 2021;
4. Failure to provide FY21 Quarter 3 FSR due on July 31, 2021;
5. Failure to provide FY21 Quarter 4 FSR due on October 31, 2021;
6. Failure to provide FY21 Quarter 4 PR due on October 31, 2021; and
7. Failure to provide FY21 Unexpended Funds Report due on October 31, 2021.

II. FY22 Compliance Planning Update

A. Overview

Statutory authority MCL §780.993 (as amended December 2018):

(3) No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before October 1 of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.

(4) The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within 90 calendar days of the submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and,

for any disapproved portion, submit a new plan, a new cost analysis, or both within 60 calendar days of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.

B. FY22 Submissions

Staff hosted several webinars for compliance planning, as well as training for the MIDC's new grant management system, and made recordings of the webinars available on our YouTube page and our website along with the forms and relevant documents for submission. The MIDC staff expected to receive a total of 120 compliance plans and cost analyses from funding units for FY22. The dates of submission are tracked closely by staff to ensure compliance with the statutory timelines for review by the Commission.

1. Status of Contracts

a. Approved plans and costs; executed contracts

As of the October 19, 2021 meeting, 113 of 120 systems have had their plans and cost analyses approved. All of those contracts have been distributed to those systems for review and signature. **As of this writing, 111 contracts have been returned, signed, and finalized by LARA for distribution of initial funding.**

- **FY22 total system cost approved (to date): \$129,694,649.89**
- **Local share (increase of 1.2% from FY19): \$27,226,633.10**
- **MIDC funding approved for compliance plans: \$102,467,989.79**
- **MIDC funding approved to reimburse systems for the cost of planning: \$38,943.43**

In accordance with the contract, most systems received their initial payment in early November 2021 and their second distribution in January 2022. The date of expected compliance with MIDC Standard 5, independence from the judiciary, is May 1, 2022 for these systems.

The date of first payment received and the date of expected compliance is closely tracked for every system pursuant to MCL 780.993(11). The rubric used for system assessments has been updated to reflect the new requirement of independence from the judiciary.

b. Pending contracts

The following systems have received their contract from the MIDC but the MIDC has not yet received their signed contract:

- City of Inkster (waiting for signature)
- City of Plymouth (identifying funding unit)

2. System Reporting - Progress Towards Compliance

Staff received the first quarter of reporting from systems for FY22 (covering October 1, 2021 through December 31, 2021) at the end of January 2022. This was the first time funding units entered the following reporting in EGrAMS:

- Attorney List
- Financial Status Report
- Quarterly Program Report

MIDC Staff offered online training sessions in mid-January and posted a recording of the training on the MIDC's YouTube page for anyone to review. Staff also conducted multiple "office hours" or drop-in online support sessions for technical assistance through the end of January.

As of this writing, over 90% of the reporting has been successfully submitted by funding units; review by staff is ongoing. All requests for corrections are processed through EGrAMS; local system project

directors are able to review the status of reporting, payments, adjustments, and contract terms at any time.

3. Revisions to approved plans or costs

a. Mecosta County (**action item**)

FY22 Total system cost: \$475,512.00

Local Share: \$165,276.80

MIDC Funding: \$310,235.20

FY22 Amended Total System Cost Request: \$539,312.00

The system will study the possibility of creating a Special Assignment Team to provide criminal defense attorneys to rural counties in need of outside defense counsel. The [initial study is outlined in materials](#) for the Commission, as well as the [potential cost of the program](#) in the next fiscal year. The current request is to fund the initial study (\$58,000) plus administration costs (10% or \$5,800) in this fiscal year.

Staff recommends approval.

- b. The Grant Manager processed the following budget adjustment requests (line item transfers) pursuant to the process set forth in the MIDC's Grant Manual at pp. 27-28 (February 2021):

[Approved budget adjustment requests](#)

- Allegan County
- City of Dearborn (2)
- Genesee County
- Menominee County
- Monroe County

C. Final Action on FY22 Compliance Plans/Cost Analyses

At the October 19, 2021 Commission Meeting, the MIDC rejected the plan and/or cost analysis from 7 systems for their second submission for FY22. Those systems were notified of the MIDC's action through our Grant Management System (EGrAMS), as well as an official mailing dated October 25, 2021. The deadline for resubmission was December 24, 2021. This is the final submission for these systems pursuant to MCL 780.994(4).

1. Ad Hoc Committee Work: Line Item Transfers

Chair – Tom McMillin

This committee met via zoom on February 7, 2022, to discuss staff's recommendation as to Wayne County.

2. Substantive Review of Resubmissions – Action Requested

Senior staff recommends, pursuant to MCL 780.993(4), as follows:

Disapprove plan/disapprove cost analysis

(1) [D 43-1 City of Hazel Park](#)

FY21 Total system cost approved: \$848,276.56

FY22 Total system cost requested: \$872,096.65 (reduced from original request, which was \$958,235.41)

Managed assigned counsel system will continue. Plan needs corrections concerning non-attorney deciding expert requests and clarification about the appeal process for MAC decisions; cost analysis contains MAC team compensation increase, supplanting, and employees that were reduced/eliminated in FY21 without accompanying time study to support increase/insertion of these employees into budget.

Resubmission: Plan eliminates non-attorney deciding expert requests and clarifies appeal process for MAC decisions; Quarter 3 reporting,

however, reveals that system continues to distribute attorney work inconsistently with the previously approved plan; cost analysis contains employees that were reduced/eliminated in FY21 without accompanying time study to support increase/insertion of these employees into budget.

Final submission: No changes made. FY21 Q4 reporting was not submitted in a timely manner.

Approve plan and approve cost analysis:

(2) D 32a - City of Harper Woods

FY21 Total system cost approved: \$221,006.72

FY22 Total system cost requested: \$193,492.74 (reduced from original request, which was \$308,158.77)

House counsel/assigned counsel system seeking to add a civil litigation firm as the managed assigned counsel coordinator at \$350/hr. Additional details regarding compliance with Standards 1, 2, 4 and 5 are required for analysis; costs include increases for attorneys.

Resubmission: Compliance plan remains incomplete; MAC rate reduced to \$100/hr but further clarification regarding need for hours (totaling \$20,000/yr) and full-time MIDC coordinator (\$68,196.16 including fringe benefits) for this system is required.

Final submission: Eliminated MAC and will be joining the Wayne County District Court Regional Office. MIDC Coordinator hours are included for the first 3 months of FY22 for transition support.

(3) **D 62A - City of Wyoming (also covers Grandville, Walker, Kentwood)**

FY21 Total system cost approved: \$647,885.74

FY22 Total system cost requested: \$765,005.11 (reduced from original request, which was \$809,851.55)

This system contracts with the Kent County Office of the Defender and a roster of attorneys for conflict cases. Selection of attorneys includes judicial input; the cost analysis requires clarification regarding increase for attorney fees; also includes a significant construction project including funds to relocate city attorneys.

Resubmission was submitted by a new entity described as a “public body corporate” identified as the “Kent County Indigent Defense Authority (KCIDA)” instead of an indigent criminal defense system. The MIDC only accepts plans and costs from indigent defense systems pursuant to MCL§780.993(3) as those systems defined in §780.983(h). The system’s profile application as a quasi-governmental authority calls into question budget line items in the proposed cost analysis and requires clarification as to which funding unit will receive funding as a local unit of government (personnel, indirect costs), a subgrantee, and/or a vendor (direct accounting and auditing charges).

Final submission: This system would like to create an Indigent Defense Coordinator/MAC full time employee position for the regional plan that includes four funding units and three third class district courts (Grandville, Kentwood, Walker, and Wyoming). Under the previous model, the indigent defense services were managed by a patchwork of people, cities, and a nonprofit and this patchwork system was not sustainable. The revision includes the necessary infrastructure to manage the plan while also implementing Standard 5 and planning for the implementation of the Indigency Standard. The funding increase is attributable to the salary & fringe benefits, office equipment, and construction of office space for this new FTE MAC.

Approve cost analysis (plan previously approved)

(4) D 36 - City of Detroit

FY21 Total system cost approved: \$8,323,170.00

FY22 Total system cost requested: \$3,574,693.23 (reduced from original request, which was \$8,857,176.97)

Assigned counsel and contract defender system with an indigent defense coordinator for services. Clarification regarding selection and assignment process for Standard 2 and services for Standard 4 are required for analysis; detail supporting raises for personnel are requested; costs for attorneys do not track projected spending and require further detail; documentation to support ancillary spending request is required for analysis.

Resubmission: Revised plan makes clear that attorneys are selected by the managed assigned counsel team and assigned in a rotation system; clarified payments and removed duplicative coverage under Standard 4. Expert and investigator funding was reduced, ancillary spending (clerk) was addressed and spending for the MDOC was removed; further documentation is still required for salary increases; correction to Polycom service agreements; projected contractual attorney spending remains significantly different from tracked projected spending, possibly due to delay in implementation of the FY21 approved fee schedules.

Final submission: All outstanding issues have been resolved; removed clerk/analyst position from personnel and benefits; reduced attorney hours to be consistent with projected spending and needs.

(5) [D 43-3 City of Madison Heights](#)

FY21 Total system cost approved: \$558,888.92

FY22 Total system cost requested: \$486,880.17 (reduced from original request, which was \$555,606.18)

Managed assigned counsel system will continue. Plan needs corrections concerning non-attorney deciding expert requests and reviewing hourly billing and clarification about the appeal process for MAC decisions; cost analysis needs support for MAC team's compensation increase and the continued need for significant ancillary support; additionally, the requested attorney fees amount does not track with historical spending.

Resubmission: Concerns about non-attorney deciding expert requests and reviewing hourly billing, as well as appeal process for MACC decisions, have been resolved; compensation increase for MACC team and MIDC clerk position were eliminated; and the requested attorney fees amount was reduced. We will continue working with system to verify need for ancillary support during FY22.

Final submission: All outstanding issues have been resolved; the system will continue to document the need for ancillary spending in any future requests for funding.

(6) [Macomb County](#)

FY21 Total system cost approved: \$7,556,919.62

FY22 Total system cost requested: \$7,334,630.58 (reduced from original request, which was \$9,278,760.58)

Public defender office with a roster for conflict attorneys. Plan and cost analysis contain a significant request (+\$987,575.00) for construction for the PD office; cost analysis contains additional employee that is not actually being requested; and attorney fee schedule for roster attorneys has not been submitted.

Resubmission: System removed employee that was not really being requested; construction costs have increased by \$331,744 since first

submission, largely due to system's decision to accommodate a neighboring clinic's desire to expand its space; cost analysis contains unnecessary expenditures for things like court rules and extra Accurint account; expert and investigator funding request is unsupported by historical spending; cost analysis contains incorrect amount for CRDC subscription.

Final submission: The system is only expanding the PD office by one attorney and 1.5 administrative staff members; plan to construct a new PD office on hold for FY22. All other corrections have been resolved.

Approve portions of cost analysis pursuant to MCL 780.993(4) (plan previously approved)

(7) **Wayne County**

FY21 Total system cost originally approved: \$31,259,985.16

FY21 Total system cost post mediation: \$33,644,985.16
(increased construction award by \$2,385,000.00)

FY22 Total system cost requested: \$35,241,747.52 (reduced from original submission, which was \$50,701,870.11)

FY22 MIDC Staff recommended total system cost: \$32,832,775.46

The Office of Public Defense Services (MAC system) oversees the public defender office and assigned counsel roster system; system is seeking significant increase (62.19% or \$19,441,885.00) with \$3,847,899.40 of that request in the NDS (PD office) budget, which represents a 46.75% increase for a 10% increase in caseload. Additional information is needed regarding NDS personnel breakdown (not itemized in EGrAMS); the overall increase to the NDS budget; the methodology utilized in the new assigned counsel calculations; the lack of a reduction in expert/investigator funds when only 8.7% has been spent in the first two quarters of FY21 and the lack of reduction in other areas to analyze the request. Additionally, the technology costs associated with the CJC (\$253,245.08) need to be deleted from the cost analysis.

Resubmission: Detail was supplied for vendor spending in the separate cost analysis as requested and the technology costs associated with the CJC were deleted. Review of the vendor cost analysis does not support request for increase to staff, and funding requests for contractual payments to attorneys and experts are significantly inconsistent with projected spending and must be reduced. Spending through Q3 on contractual payments to attorneys is approximately 30% of FY21 award (outside of vendor PD office); payments to experts is approximately 11% of FY21 award. Construction costs mediated in FY21 should be reauthorized in FY22.

Final submission: All issues were corrected, with the exception of the request for funding the nonprofit vendor office. Based on caseloads and spending, staff recommends reducing the line item to the contract defender office (by \$2,408,972.06) to a total of \$8,444,021.60, the amount awarded for this line item in FY21.

FY22 Final Staff Recommendations	MIDC Funding	Local Share	Total System Cost
City of Harper Woods	\$180,955.82	\$12,536.92	\$193,492.74
City of Madison Heights	\$485,116.23	\$1,763.94	\$486,880.17
City of Detroit	\$2,498,651.98	\$1,076,041.25	\$3,574,693.23
City of Wyoming	\$710,157.81	\$54,847.30	\$765,005.11
Macomb County	\$5,114,430.09	\$2,220,200.49	\$7,334,630.58
Wayne County	\$25,296,073.45	\$7,536,702.01	\$32,832,775.46
Totals	\$34,285,385.38	\$10,902,091.91	\$45,187,477.29

MIDC Region	Trial Court System		MIDC Funding	FY22 Local Share (+ 1.2%)	Total System Cost
LMOSC	D 37 Cities of Warren/Centerline	1	\$823,519.65	\$121,606.11	\$945,125.76
	D 38 City of Eastpointe	1	\$502,456.41	\$52,489.74	\$554,946.15
	D 39 Roseville and Fraser	1	\$706,665.52	\$89,366.68	\$796,032.20
	D 40 City of St Clair Shores	1	\$473,875.83	\$7,010.18	\$480,886.01
	D 41a1 Sterling Heights	1	\$360,353.00	\$0.00	\$360,353.00
	D 41-a-2 Shelby Twp	1	\$322,175.00	\$0.00	\$322,175.00
	D 41b Clinton Township	1	\$480,182.64	\$43,192.36	\$523,375.00
	D 43-2 City of Ferndale	1	\$542,382.50	\$15,158.75	\$557,541.25
	D 44 City of Royal Oak	1	\$598,229.55	\$22,470.45	\$620,700.00
	D 45 City of Oak Park	1	\$408,092.86	\$41,757.14	\$449,850.00
	D 46 Southfield	1	\$491,728.00	\$81,972.00	\$573,700.00
	D 47 City of Farmington	1	\$334,786.59	\$21,696.55	\$356,483.14
	D 48 Birmingham	1	\$515,257.40	\$17,292.64	\$532,550.04
	D 50 Pontiac	1	\$603,133.64	\$17,846.62	\$620,980.26
	D 51 Waterford	1	\$250,430.85	\$31,495.97	\$281,926.82
	Lapeer County	1	\$626,929.81	\$108,770.19	\$735,700.00
	Oakland County	1	\$5,799,650.39	\$1,850,703.10	\$7,650,353.49
	St. Clair County	1	\$2,350,681.03	\$742,832.29	\$3,093,513.32
Mid Michigan	Alcona County	1	\$117,064.17	\$40,610.83	\$157,675.00
	Alpena County	1	\$513,660.66	\$161,762.81	\$675,423.47
	Arenac County	1	\$143,646.61	\$113,217.22	\$256,863.83
	Bay County	1	\$901,881.83	\$600,267.28	\$1,502,149.11
	Clare/Gladwin Counties	1	\$1,280,120.43	\$234,211.53	\$1,514,331.96
	Huron County	1	\$575,437.43	\$80,388.83	\$655,826.26
	Iosco County	1	\$199,089.24	\$170,125.24	\$369,214.48
	Isabella County	1	\$1,351,810.10	\$236,106.56	\$1,587,916.66
	Lake County	1	\$235,547.38	\$77,132.21	\$312,679.59
	Mason County	1	\$615,564.60	\$155,320.77	\$770,885.37
	Mecosta County	1	\$310,235.20	\$165,276.80	\$475,512.00
	Midland County	1	\$304,289.87	\$257,058.73	\$561,348.60
	Montmorency County	1	\$239,992.80	\$16,749.61	\$256,742.41

	Newaygo County	1	\$683,862.70	\$199,441.35	\$883,304.05
	Oceana County	1	\$458,186.10	\$92,044.44	\$550,230.54
	Ogemaw County	1	\$614,603.90	\$146,403.00	\$761,006.90
	Osceola County	1	\$361,744.15	\$69,619.53	\$431,363.68
	Oscoda County	1	\$154,873.98	\$53,806.02	\$208,680.00
	Roscommon County	1	\$216,530.94	\$201,674.06	\$418,205.00
	Saginaw County	1	\$4,626,338.51	\$908,692.00	\$5,535,030.51
	Sanilac County	1	\$344,203.39	\$65,041.20	\$409,244.59
	Tuscola County	1	\$1,249,564.16	\$251,471.88	\$1,501,036.04
Northern Michigan	Alger County	1	\$405,885.10	\$52,940.80	\$458,825.90
	Antrim County	1	\$182,786.23	\$79,372.17	\$262,158.40
	Charlevoix County	1	\$434,236.21	\$166,828.20	\$601,064.41
	Cheboygan County	1	\$303,321.19	\$143,100.85	\$446,422.04
	Chippewa County	1	\$356,843.11	\$222,178.53	\$579,021.64
	Crawford County	1	\$693,411.84	\$14,882.47	\$708,294.31
	Delta County	1	\$621,355.97	\$108,518.78	\$729,874.75
	Dickinson County	1	\$505,099.52	\$67,982.11	\$573,081.63
	Emmet County	1	\$332,563.71	\$161,235.89	\$493,799.60
	Gogebic County	1	\$463,410.81	\$103,358.07	\$566,768.88
	Grand Traverse County	1	\$1,116,101.35	\$155,422.96	\$1,271,524.31
	Houghton (Baraga, Keweenaw)	1	\$632,581.33	\$156,898.87	\$789,480.20
	Iron County	1	\$533,406.78	\$72,356.31	\$605,763.09
	Kalkaska County	1	\$396,646.87	\$39,462.94	\$436,109.81
	Leelanau County	1	\$206,736.62	\$52,315.70	\$259,052.32
	Luce County	1	\$262,195.93	\$29,880.31	\$292,076.24
	Mackinac County	1	\$69,225.97	\$135,491.62	\$204,717.59
	Manistee/Benzie Counties	1	\$704,673.31	\$280,379.94	\$985,053.25
	Marquette County	1	\$1,011,820.06	\$227,670.65	\$1,239,490.71
	Menominee County	1	\$399,935.96	\$115,064.40	\$515,000.36
	Ontonagon County	1	\$169,334.85	\$27,502.46	\$196,837.31
	Otsego County	1	\$275,326.20	\$81,468.02	\$356,794.22
	Presque Isle County	1	\$162,699.80	\$74,168.79	\$236,868.59
	Schoolcraft County	1	\$202,899.73	\$35,958.87	\$238,858.60
	Wexford/Missaukee Counties	1	\$990,701.02	\$145,464.88	\$1,136,165.90

South Central Michigan	Clinton County	1	\$1,155,074.66	\$146,394.91	\$1,301,496.57
	Eaton County	1	\$1,673,737.93	\$440,970.90	\$2,114,708.83
	Genesee County	1	\$3,869,213.84	\$1,322,530.18	\$5,191,744.02
	Gratiot County	1	\$678,966.43	\$82,584.93	\$761,551.36
	Hillsdale County	1	\$273,765.57	\$112,642.68	\$386,408.25
	Ingham County	1	\$5,566,775.92	\$912,845.25	\$6,479,621.17
	Jackson County	1	\$3,613,252.33	\$561,783.17	\$4,175,035.50
	Lenawee County	1	\$1,740,310.79	\$212,713.55	\$1,953,024.34
	Livingston County	1	\$1,392,680.60	\$927,689.27	\$2,320,369.87
	Monroe County	1	\$966,374.61	\$213,883.16	\$1,180,257.77
	Shiawassee County	1	\$1,156,393.71	\$105,043.58	\$1,261,437.29
	Washtenaw County	1	\$4,058,515.78	\$2,622,525.54	\$6,681,041.32
Wayne County	D 16 Livonia	1	\$574,956.13	\$17,418.40	\$592,374.53
	D 17 Township of Redford	1	\$354,367.03	\$52,102.37	\$406,469.40
	D 18 City of Westland	1	\$552,093.78	\$62,341.22	\$614,435.00
	D 19 Dearborn	1	\$1,074,502.99	\$78,083.56	\$1,152,586.55
	D 20 Dearborn Heights	1	\$190,451.15	\$9,735.10	\$200,186.25
	D 21 Garden City	1	\$122,320.14	\$8,850.95	\$131,171.09
	D 22 Inkster	1	\$43,676.07	\$45,540.00	\$89,216.07
	D 23 Taylor	1	\$361,001.18	\$39,975.01	\$400,976.19
	D 24 Allen Park	1	\$156,078.52	\$14,686.48	\$170,765.00
	D 25 City of Lincoln Park	1	\$339,141.73	\$10,630.89	\$349,772.62
	D 27 Wyandotte	1	\$231,217.77	\$1,448.03	\$232,665.80
	D 28 City of Southgate	1	\$205,944.57	\$4,641.03	\$210,585.60
	D 29 City of Wayne	1	\$124,979.07	\$23,246.04	\$148,225.11
	D 30 Highland Park	1	\$120,944.03	\$13,662.00	\$134,606.03
	D 31 Hamtramck	1	\$108,590.15	\$14,345.10	\$122,935.25
	D 33 Woodhaven	1	\$208,594.07	\$76,005.93	\$284,600.00
	D 34 Romulus	1	\$263,562.54	\$54,774.50	\$318,337.04
	D 35 Plymouth	1	\$343,382.78	\$30,837.22	\$374,220.00
	Grosse Pointe Farms/Shores	1	\$54,631.70	\$14,868.30	\$69,500.00
	Grosse Pointe Municipal	1	\$12,099.04	\$3,200.96	\$15,300.00
	Grosse Pointe Park	1	\$26,164.41	\$10,085.59	\$36,250.00

	Grosse Pointe Woods	1	\$52,800.00	\$3,120.00	\$55,920.00
Western Michigan	Allegan/Van Buren Counties	1	\$2,127,228.86	\$535,611.12	\$2,662,839.98
	Barry County	1	\$595,406.47	\$229,039.21	\$824,445.68
	Berrien County	1	\$3,508,379.23	\$569,469.67	\$4,077,848.90
	Branch County	1	\$959,446.83	\$153,193.52	\$1,112,640.35
	Calhoun County	1	\$3,076,032.47	\$691,457.10	\$3,767,489.57
	Cass County	1	\$244,915.60	\$251,853.40	\$496,769.00
	D 61 City of Grand Rapids	1	\$978,584.39	\$175,391.74	\$1,153,976.13
	Ionia County	1	\$345,612.24	\$221,226.90	\$566,839.14
	Kalamazoo County	1	\$3,383,996.10	\$1,164,600.40	\$4,548,596.50
	Kent County	1	\$5,999,666.07	\$2,425,133.52	\$8,424,799.59
	Montcalm County	1	\$718,984.93	\$222,976.18	\$941,961.11
	Muskegon County	1	\$2,361,498.58	\$670,241.53	\$3,031,740.11
	Ottawa County	1	\$2,915,257.46	\$934,164.04	\$3,849,421.50
	St. Joseph County	1	\$464,441.25	\$419,081.71	\$883,522.96
	Total approved as of October 19, 2021	113	\$102,467,989.79	\$27,226,633.10	\$129,694,649.89