

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

INDEPENDENT AUDITORS' REPORT
AND
FINANCIAL STATEMENTS

December 31, 2013

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors
Texas Defender Service

We have audited the accompanying financial statements of the Texas Defender Services (a nonprofit corporation), which comprise the statement of financial position as of December 31, 2013, and the related statement of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Texas Defender Service as of December 31, 2013, and the changes in their net assets and cash flows for the year then ended are in accordance with accounting principles generally accepted in the United States of America.

Allman & Associates, Inc.

Austin, Texas
April 14, 2014

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

STATEMENT OF FINANCIAL POSITION

As of December 31, 2013

Assets	
Current Assets:	
Cash and cash equivalents	\$ 1,271,159
Grants receivable - current	1,170,000
Accounts receivable	5,512
Other Assets	<u>1,174</u>
Total Current Assets	2,447,845
Grants receivable - long-term portion	525,000
Property and Equipment, net of accumulated depreciation	<u>565,027</u>
Total Assets	<u><u>\$ 3,537,872</u></u>
Liabilities and Net Assets	
Current Liabilities	
Accounts payable	\$ 6,214
Accrued expenses	<u>50,342</u>
Total Current Liabilities	<u>56,556</u>
Total Liabilities	<u>56,556</u>
Net Assets:	
Unrestricted Net Assets	1,839,091
Temporarily Restricted Net Assets	<u>1,642,225</u>
Total Net Assets	<u>3,481,316</u>
Total Liabilities and Net Assets	<u><u>\$ 3,537,872</u></u>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

STATEMENT OF ACTIVITIES

For the Year Ended December 31, 2013

	Unrestricted	Temporarily Restricted	Total
Revenues:			
Grants	\$ 1,823,835	\$ 1,373,000	\$ 3,196,835
Litigation income	728,406	-	728,406
Contributions	258,143	-	258,143
Other income	2,542	-	2,542
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	2,812,926	1,373,000	4,185,926
Released from restrictions	435,661	(435,661)	-
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Total Revenues	3,248,587	937,339	4,185,926
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Expenses			
Program Services			
Trial Project	699,899	-	699,899
Post Conviction	533,070	-	533,070
Policy Advocacy	84,103	-	84,103
Capital Litigation Communications	219,922	-	219,922
Atlantic Center for Capital Representation	249,670	-	249,670
StandDown Texas	60,924	-	60,924
Other Program Services	99,603	-	99,603
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Total Program Services	1,947,191		1,947,191
Management and general	202,027	-	202,027
Fundraising	151,417	-	151,417
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Total expenses	2,300,635	-	2,300,635
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Change in Net Assets	947,952	937,339	1,885,291
Net Assets, Beginning of Year	891,139	704,886	1,596,025
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Net Assets, End of Year	\$ 1,839,091	\$ 1,642,225	\$ 3,481,316
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See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

STATEMENT OF FUNCTIONAL EXPENSES

For the Year Ended December 31, 2013

Expense Category	Program Services	General & Administrative	Fundraising	Totals
Salaries	\$ 1,100,646	\$ 121,019	\$ 89,201	\$ 1,310,866
Contract labor	24,215	2,000	-	26,215
Employee benefits & taxes	209,618	30,983	19,297	259,898
Office rent, parking & insurance	58,591	6,130	5,579	70,300
Telephone/internet access	19,819	1,598	698	22,115
Office supplies	10,184	2,585	1,355	14,124
Travel & training	118,419	1,151	2,297	121,867
Law library	4,940	2	-	4,942
Equipment rental	880	68	29	977
Postage and delivery	6,537	508	787	7,832
Printing and reproduction	5,390	119	2,582	8,091
Professional development	10,397	150		10,547
Professional fees	334,725	9,790	4,443	348,958
Maintenance and repairs	23,677	2,705	1,456	27,838
Subscriptions and books	9,599	-	60	9,659
Fundraising expenses	-	-	23,542	23,542
Director and officers insurance	-	3,475	-	3,475
Professional liability insurance	6,466	-	-	6,466
Depreciation	-	18,873	-	18,873
Other expenses	3,088	871	91	4,050
Totals	<u>\$ 1,947,191</u>	<u>\$ 202,027</u>	<u>\$ 151,417</u>	<u>\$ 2,300,635</u>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
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STATEMENT OF CASH FLOWS

For the Year Ended December 31, 2013

Cash Flows From Operating Activities	
Increase in net assets	\$ 1,885,291
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation	18,873
Changes in assets and liabilities:	
Accounts and grants receivable	(1,525,512)
Prepaid expenses	186
Accounts payable	4,523
Accrued expenses	(5,367)
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Net Cash Provided by Operating Activities	377,994
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Cash Flows From Investing Activities:	
Purchase of furniture and equipment	(4,708)
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Net Cash Used by Investing Activities	(4,708)
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Net Increase in Cash	373,286
Cash, Beginning of Year	897,873
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Cash, End of Year	\$ 1,271,159
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Supplemental Disclosure:	
Cash paid for interest	\$ -
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Cash paid for income taxes	\$ -
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See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2013

1. General Information

The Texas Defender Service (“TDS”) is a non-profit organization with offices in Houston, Austin, and Philadelphia. Founded in 1995, the Texas Defender Service provides direct representation to indigent inmates on Texas’ death row, consults with other lawyers litigating such cases, intervenes in cases where expert legal assistance is urgently needed, and engages in issue advocacy aimed at improving the Texas criminal justice system. TDS’ mission is to establish a fair and just criminal justice system in Texas. There are five aspects of TDS’ work, all of which aim to improve the fairness of the proceedings or quality of representation provided to indigent persons in Texas: (1) Trial Project – trial litigation, training and consulting aimed at reducing new death sentences; (2) Post Conviction – post-conviction litigation and consulting aimed at reducing executions; (3) Policy Advocacy – systemic research, advocacy and report publication regarding Texas death penalty and criminal justice issues; (4) Capital Litigation Communications – a comprehensive campaign designed to increase the chances for capital litigation success and erode public confidence in the death penalty; (5) The Atlantic Center for Capital Representation (ACCR) – a regional death penalty representation project based in Philadelphia that replicates the trial project work on the Atlantic coast; and (6) Prosecutorial Accountability Project (PAP) – a newly established program designed to create accountability for prosecutors who violate the Constitution and laws of the United States as well as the ethical codes of the legal profession.

TDS’ financial statements include the financial activity of another nonprofit organization, the StandDown Texas Project. The StandDown Texas Project was organized in 2000 to advocate a moratorium on executions and a state-sponsored review of Texas’ application of the death penalty. To stand down is to go off duty temporarily, especially to review safety procedures.

TDS has a fiscal sponsorship agreement which began May 14, 2008 with the StandDown Texas Project whereby TDS received the assets and incurred liabilities identified with the StandDown Texas Project and uses them to pursue the objectives for which the StandDown Texas Project was established. The employees of StandDown do not participate in the employee benefits of TDS, and their employees have signed written acknowledgements for nonparticipation.

2. Summary of Significant Accounting Policies

Basis of Accounting

The accompanying financial statements have been prepared on the accrual basis of accounting. Contributions received are recorded as unrestricted, temporarily restricted and permanently restricted support depending on the existence or nature of donor stipulations.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2013

2. Summary of Significant Accounting Policies (continued)

Classification of Net Assets

Net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of TDS and changes therein are classified as follows:

Unrestricted net assets - Net assets that are not subject to donor-imposed restrictions.

Temporarily restricted net assets - Net assets subject to donor-imposed stipulations which expire when the stipulated purpose for which the resource was restricted has been fulfilled.

Permanently Restricted Net Assets - Net assets subject to donor-imposed stipulations that they be maintained permanently by TDS. TDS had no permanently restricted net assets as of December 31, 2013.

Use of Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Federal Income Taxes

TDS is exempt from Federal income taxes under Section 501(a) of the Internal Revenue Code (IRC) as an organization described in Section 501(c)(3).

Cash and Equivalents

For the purpose of the statements of cash flows, TDS considers cash and highly liquid investments with maturities of three months or less when purchased to be cash equivalents.

Grants Receivable

Grants received, including unconditional promises, are recognized as revenue when the donor's commitment is received. Pledged grants receivable are recognized as current receivables for those to be received in the next year and long term receivables for those to be received after one year. TDS has not established an allowance for uncollectible receivables based on its history and the credit worthiness of the granting organizations.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2013

2. Summary of Significant Accounting Policies (continued)

Property and Equipment

Property, equipment and leasehold improvements with a cost greater than or equal to \$1,000 and a useful life greater than one year are capitalized and recorded at cost, including the cost of significant improvements or renovations. Donated assets are recorded at their estimated fair market value at the date of donation. Costs of routine repairs and maintenance are charged to expense as incurred. Depreciation is calculated using the straight-line method over estimated lives of three to forty years.

Functional Accounting

The costs of providing the various programs and activities have been summarized on a functional basis in the statement of activities. Accordingly certain costs have been allocated among the programs and supporting services benefited. Expenses that can be identified with a specific program or that relate to a specific source of revenue are allocated directly to that program.

Credit Risk

Financial instruments which potentially subject TDS to credit risk consist of cash and cash equivalents, and accounts receivable. TDS has no formal policy which limits credit exposure for balances exceeding federal insurance limits by restricting the amount which may be deposited with any one financial institution. TDS's deposits exceeded the federal depository insurance limits by \$1,038,546 as of December 31, 2013. TDS generally does not maintain collateral for its accounts receivable, and does not believe significant credit risk exists as of December 31, 2013.

Subsequent Events

Subsequent events are events or transactions that occur after the statement of financial position date but before the financial statements are issued. We have evaluated subsequent events through the issuance date of the audit report, April 14, 2014, and there were no subsequent events to be disclosed.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2013

3. Property and Equipment

Major classes of property and equipment consist of the following:

Land	\$	176,400
Building		389,855
Office furniture and equipment		116,852
Less accumulated depreciation		<u>(118,080)</u>
Property and equipment, net	\$	<u>565,027</u>

Depreciation expense for the year ended December 31, 2013 was \$18,873.

4. Temporarily Restricted Net Assets

Temporarily restricted net assets consisted of the following unspent grant funds at December 31, 2013:

Butler Family Fund - TDS	\$	30,000
Tides - TDS		150,000
Open Society Foundation - TDS		400,000
Vital Projects - PAP		173,150
Open Society Foundation - ACCR		175,000
Butler Family Fund - ACCR		40,000
Vital Projects - ACCR		50,000
Atlantic Philanthropies - ACCR & CLCP		600,000
Proteus Action League -Standown		<u>24,075</u>
Total	\$	<u>1,642,225</u>

5. Pension Plan

TDS established a defined-contribution retirement plan covering all salaried employees with at least one year of employment except StandDown employees. Expenses under the plan were \$1,919 for the year ended December 31, 2013.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2013

6. Lease Commitments

TDS leases office facilities in Austin and Philadelphia and office equipment under operating leases that expire at various times. Total rental expense for 2013 was \$69,970.

Future minimum lease payments are as follows:

Year	Amount
2014	\$ 43,413
2015	<u>5,550</u>
Total lease payments	<u>\$ 48,963</u>

7. Fair Value Measurements and Disclosures

The requirements of *Fair Value Measurements and Disclosures* of the Accounting Standards Codification apply to all financial instruments and all nonfinancial assets and nonfinancial liabilities that are being measured and reported on a fair value basis. Fair value is a market-based measurement, not an entity-specific measurement. For some assets and liabilities, observable market transactions or market information might be available. For other assets and liabilities, observable market transactions and market information might not be available. However, the objective of a fair value measurement is the same in both cases – to estimate the price at which an orderly transaction to sell the asset or to transfer the liability would take place between market participants at the measurement date under current market conditions (that is, an exit price). *Fair Value Measurements and Disclosures* also establish a fair value hierarchy that prioritizes the inputs used in valuation methodologies into the following three levels:

- Level 1 Inputs – Quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity can access at the measurement date.
- Level 2 Inputs – Inputs other than quoted prices included with Level 1 that are observable for the asset or liability either directly or indirectly.
- Level 3 Inputs – Unobservable inputs for the asset or liability.

The fair value of the TDS's current assets and current liabilities approximate the carrying amounts of such instruments due to their short maturity.