

**West Virginia  
Justice Assistance Grant  
(JAG)  
Program**

**Administrative Manual**



**Division of Justice and Community Services  
Department of Military Affairs and Public Safety  
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## **PREFACE**

This manual provides procedures for the administration of West Virginia Justice Assistance Grant Program sub grants. When revisions and corrections are deemed necessary, appropriately changed pages will be issued.

The staff of the West Virginia Division Justice and Community Services (DJCS) will be pleased to discuss any questions/issues which are not adequately covered in this manual and will be receptive to recommendations that might make the administration of grant funds easier and more efficient. Questions that arise during the grant cycle that have not been previously addressed should be discussed with a justice programs specialist before any action is taken. For further information, clarification, materials, or submission of ideas, please contact:

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# Chapter 1

## GENERAL INFORMATION

### A. Description

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system.

The procedure for allocating JAG funds is a formula based on population and crime statistics, in combination with a minimum allocation to ensure that each state and territory receives an appropriate share. Traditionally, under the Byrne Formula and LLEBG Programs, funds were distributed 60/40 between state and local recipients. This distribution continues under JAG.

#### *JAG Purpose Areas:*

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment programs.
- Planning, evaluation, and technology improvement programs.

### B. Administration of Federal Funds

The U.S. Department of Justice, Bureau of Justice Assistance awards funds appropriated by Congress to the West Virginia Division of Justice and Community Services (DJCS) of the Department of Military Affairs and Public Safety which has been designated by the Governor as the state agency responsible for the administration of the Justice Assistance Grant Program in West Virginia.

## Chapter 2

### APPLICATION PROCESS

#### A. General

Applications for federal funds by state and local government agencies are initiated by completing a grant application for Justice Assistance Grant funds and submitting it to the West Virginia Division Justice and Community Services.

A standard grant application form must be used for all grants. Copies of this form are available from the West Virginia Division Justice and Community Services.

#### B. Application Process

The application process consists of the following steps:

1. Applications will be promptly acknowledged upon receipt and reviewed for completeness. Applicant will be contacted if revisions are needed.
  - All Justice Assistance Grant applications, which are not received by the grant application deadline, will not be considered for funding by the JAG Advisory Committee.
  - The JAG Advisory Committee will not accept ineligible Justice Assistance Grant applications for review.
  - Grant applications will not be considered for funding by the JAG Advisory Committee, if the applicant is not current with submitting Incident Based Reporting (IBR) information to the West Virginia State Police.

2. Staff will assess the merit and overall need of the project as well as evaluate how the specific project will satisfy goals and objectives. The merits of the application will include, but will not necessarily be limited to:
  - a. Compliance of the proposed project application with the priority program areas.
  - b. The eventual assumption of costs by the applicant agency.
  - c. Probability that the grant will achieve its goal(s) and objective(s).
  - d. Adequate fiscal responsibility.
  - e. Certification that federal funds will not be used to supplant or replace state or local funds.
  - f. Coordination of efforts with state and local jurisdictions and federal grant programs.
3. The WV JAG Advisory Committee shall review applications and provide funding recommendations to the Governor. It is required that an individual who is familiar with the proposed project be available by phone or in person during the Advisory Committee's review, should there be any questions about the application.

*Advisory Committee members do not vote on or participate in discussion of grant applications from their individual agencies. The JAG Advisory Committee members adhere to WV Ethics Code*

- *Title 158 Series 9*
  - *2.1 a public official or public employee may not vote on or decide a matter that has become "personal" to that individual.*
  - *2.3 for a public official's or public employee's recusal to be effective, it is necessary for the official or employee to excuse himself from participating in the discussion and decision making by physically removing himself from the room during that period, fully disclose his interest, and recuse himself from voting on the issue.*

**Applicants should note that authority to make grant awards is vested only by the Governor.** Advisory Committee and staff recommendations are advisory only and should not be considered as indicative of the final action by the Governor.

*Applications from agencies who are delinquent on any reports from current projects may not be considered for funding.*

**C. Award**

Each approved project not operational within 60 days of the approved starting date of the grant period must report by letter to DJCS the steps taken to initiate the project, the reasons for delay, and the expected starting date.

If a project is not operational within 90 days of the original starting date of the grant period, the grantee must submit a second letter to DJCS explaining the implementation delay. Upon receipt of the 90- day letter, DJCS may cancel the project and redistribute the funds to other project areas or under extenuating circumstances, extend the project period.

## Chapter 3

### MATCHING FUNDS REQUIREMENTS

#### A. General

The Justice Assistance Grant Advisory Committee requires a twenty-five percent (25%) cash match for funds on the following basis:

"Federal funds may be used to pay up to 75 percent of the cost of a grant project. The remaining non-federal share shall be in cash. Match will be required on a project by project basis. Funds required to pay the non-federal portion of the cost of each project shall be in addition to funds that would otherwise be available."

For example, if a project was going to cost \$100,000 to implement, the grant would provide \$75,000 and the applicant must provide \$25,000.

Documentation for matching funds must be clearly indicated and submitted along with the monthly requests for reimbursement. Documentation requirements for match and grant funds requested for reimbursement are the same. All grantees must maintain records that clearly show the source, the amount and the timing of all matching contributions.

## Chapter 4

### ALLOWABILITY OF COSTS

#### A. General

The purpose of this chapter is to set forth cost allowability rules and principles. The rules and principles for determining allowable costs\* apply to all grants awarded and are intended to provide a basis for a uniform approach when determining costs under projects supported with federal funds. Cost principles for state and local governments are found in **Appendix A**.

#### B. Basic Principles

The basic guide in determining allowability of costs will be the extent to which these costs contribute to the purposes and execution of federal assisted programs. It will be assumed that:

1. Applicant agencies will bear their appropriate share of allocated costs as allowable under federal, state and local law or regulation.
2. West Virginia Division Justice and Community Services and its grantees have the primary responsibility for employing whatever form of organization and management techniques will be necessary to assure proper and efficient fiscal administration and cost allocation, including accounting, budgeting, reporting, auditing and other review controls.

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\* In general, project costs are "all necessary charges made by a grantee to accomplish the objectives of a project during the grant period."

3. Costs pertinent to carrying out unrelated functions (i.e., unrelated to programs receiving grant support) are not allowable and there can be no recognition of "profit" or increment above true cost in executing grants.

**C. Unallowable Costs**

The following categorical guide can be used as an aid in determining unallowable costs:

1. Bad debts
2. Contingencies
3. Contributions or donations
4. Entertainment
5. Fines and penalties
6. Lobbying
7. Interest and other financial costs
8. Prior obligations
9. Legislative expenses
10. Underrecovery of costs under grant agreements
11. Real estate - Land or buildings
12. Construction
13. Awards and/or certificates
14. Vehicles
15. Policies set by the Advisory Committee (**Appendix B**)

**Funds cannot be used to supplant local funds, but instead to increase the amount of funds that would be available otherwise from local sources.**

**D. Costs Requiring Prior Approval from DCJS**

1. Out-of-state travel
2. In-state conference attendance, training, etc.
3. Consultant fees
4. Sole source procurement (**Appendix C**)

## Chapter 5

### GRANTEE REPORTING

#### A. General

Grantees are required to constantly monitor performance under grant-supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved.

#### B. Types of Reports

Grantees are required to prepare and submit the following types of reports. **(Appendix D)**

##### 1. Financial Report

This report must be prepared and submitted monthly to report expenditures of funds. The financial report is due at DJCS no later than 20 days following the close of the month. Copies of invoices as well as proof of payment must be attached to verify expenditures. Proof of payment may vary depending on how payment was made. Some example of appropriate proof of payment documentation are as follows:

- Employee time sheet with employee and supervisor signature along with a photo copy of the check to the employee or payroll ledger showing payment made.
- Photo copy of check paid to vendor with corresponding invoice.
- Copy of credit card statement showing expense along with photo copy of check paid to credit card and copy of invoice or receipt of purchase. Payment to credit card must be greater than or equal to expense requested for grant reimbursement.
- Photo copy of check to employee for reimbursement of expenses incurred by employee along with receipt or purchase or invoice.

2. **Request for Reimbursement**

All grant funds are awarded on a reimbursement basis. A Request for Reimbursement form must be prepared and submitted with and supported by the Financial Report and Progress Report to receive reimbursement funds from DJCS. The total request should agree with amounts listed on the Financial Report.

**Invoices are proof that an expense was incurred. The date on the invoice (not the purchase order) must be within the grant project period.**

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3. **Progress Reports**

This report is used to report progress, achievements, and results since the submission of the last report. Comments should directly relate to the accomplishments of the objectives, goals and impact of the project. This report must be prepared and submitted to DJCS monthly and is due no later than 20 days following the close of the month.

4. **Equipment Listing**

This report is to be completed and returned to DJCS every month that equipment is purchased. Only equipment purchased during that month should be on the form. This form should be sent with the financial, progress and request for reimbursement forms.

**For task forces, equipment costing more than \$1,000 and having a useful life of one year or more must be reported on this form.**

**All other projects, equipment costing more than \$5,000 and having a useful life of one year or more must be reported on this form.**

5. **Annual Progress Report**

The Annual Progress Report will be due within 30 days following the close of the project. This report will be mailed to the grant project director at least 30 days before close of grant.

**6. Timesheet**

When funds are awarded for the salary or over time of a employee, a timesheet must be completed and submitted on a monthly basis and is due at the DJCS office no later than 20 days following the close of the month. Each project employee and their supervisor should sign the timesheet.

## Chapter 6

### ACCOUNTING BOOKS AND RECORDS

#### A. General

Grantee must maintain accounting records in accordance with generally accepted accounting procedures, which will insure that federal and grantee matching funds are adequately accounted for. The minimum requirements for such records are explained below.

#### B. Minimum Requirements

In addition to complying with its regular accounting procedure, the grantee must keep special accounting records, which will accomplish the following:

1. Account for the receipt of federal funds approved for each grant project.
2. **Account for the expenditure of federal and grantee (matching) funds** approved for each grant project by the broad budget categories set forth below:
  - a. Personnel/Contractual - Salaries and employee benefits. Contracts for hiring of consultants. Consultant services and contracts for hiring consultants require advance DJCS approval.
  - b. Travel / Training - Lodging, transportation, registration fees, and subsistence expenses for project personnel. Out-of-State travel requires prior approval.

- c. Equipment - Physical property costing over \$1,000 for task forces and \$5,000 for all other projects per unit and estimated to last one year or more.
- d. Other - Allowable expenses not otherwise classified.

**C. Documentation**

Adequate documentation for all project costs must be maintained. Such documentation must be retained and available for audit purposes for the period of time specified in Chapter 7. Adequate documentation is defined as follows for each major budget category:

1. Personnel/Contractual - Documentation would include daily time and attendance records signed by each project employee and his supervisor. Other documentation would include payroll records, which indicate payroll period, payment rate, hours per day and other related information. For individual contractors, documentation would include the consultant agreement and invoice/statement from the consultant indicating time period, payment rate, hours per day, signature of consultant and approval of project director. For organizational contractors, documentation must be a detailed billing invoice indicating service performed or project delivered, payment rate consistent with consultant agreement and approved by project director.
2. Equipment and Other - Documentation for "Equipment" and "Other" includes audited vendor invoices approved by the project director, as well as copies of checks issued for payment.
3. Travel / Training - Documentation would include detailed expense vouchers, invoices, receipts, etc. signed by the employees and approved by employees' supervisor, as well as copies of checks issued for payment. **(Appendix E)**

**Invoices are proof that an expense was incurred. The date on the invoice (not the purchase order) must be within the grant project period.**

**D. Technical Assistance**

A determination of the adequacy of the grantee's accounting records can be made by the staff of DJCS. Technical assistance will be provided if necessary.

## Chapter 7

### GENERAL FISCAL AND ADMINISTRATIVE REQUIREMENTS

#### A. Budget Deviations

Grantee may not deviate from the approved budget. If a budget adjustment is needed, grantee must submit an **advanced** written request. These requests will be looked at on an individual basis, and will be granted only in certain instances.

#### B. Written Approval of Changes

Grantee must obtain prior written approval from DJCS for major project changes. These include: (1) changes in substance and project activities, design, or research plans set forth in the approved application, (2) changes in the project director, authorized official, fiscal officer or key professional personnel, (3) changes in the project budget and (4) changes in the length of the project period.

In the instance of a budget change, a detailed proposed budget must be submitted showing the adjustment to each category. **The adjustment must be approved by DJCS before any expenditure occurs.**

#### C. Obligation of Funds

Project funds (federal and grantee) may not be obligated prior to the effective date or subsequent to the closing or termination date of the project period. Obligations outstanding as of the closing or termination date shall be liquidated within 30 days. Such obligations must be related to goods or services provided within the project period and require advanced written approval.

**D. Travel Regulations and Rates**

These costs are to include travel expenses incurred by the program personnel for the purpose of meeting the objectives of the program. Expenses may not exceed ceilings established by either West Virginia State Travel Regulations (**Appendix E**) or the local unit of government's travel regulations, whichever are stricter.

**E. Record Retention**

Records of the grantee and its contractors, including books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records must be retained for a period of at least three years. The retention period starts from the date of the submission of the final expenditure report or, for grants, which are renewed annually from the date of the submission of the annual expenditure report. The three-year retention period is qualified as follows:

1. Records for nonexpendable property acquired with federal grant funds shall be retained for three years after its final disposition.
2. Records must be retained beyond the three-year period when an audit is in progress and/or the finding of a completed audit has not been resolved satisfactorily. If an audit is completed and the findings are resolved prior to the three-year period, records will be retained until the end of the three-year period. If the three-year period has passed and no audit has been initiated, the records will be retained in accordance with other federal, state and local law. If state and local law requires a longer period of record retention, access to the records will be allowed for purposes of an audit.
3. DJCS may request transfer of certain records to its custody when it determines that the records possess long-term retention value.

**F. Audit**

As set forth in the grant application, Special Conditions and Assurances, an annual audit is required by all grantees. The audit shall be conducted by a Certified Public Accountant and is to be done on an organization-wide basis as opposed to a grant-by-grant basis. A copy of this audit shall then be forwarded to DJCS. Audit requirements are governed by OMB Circular A-133 (**Appendix F**).

**G. Lobbying**

In 1989, in response to Federal Law, the Office of Management and Budget adopted guidelines and restrictions on lobbying. All grants funded with U.S. Department of Justice funds, will contain in the grant contract a certification regarding lobbying. The certification will be signed by the authorized official of the grant indicating no grant funds will be used to lobby, or if lobbying is engaged in by anyone associated with the grant, it will be done with non-federal funds. In an instance when a grantee lobbies with non-federal funds a Disclosure of Lobbying Activities form must be completed.

**H. Stevens Amendment**

Section 8136 of the Department of Defense Appropriates Act provides:

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of total cost of the program or project which will be financed with federal money, and (2) the dollar amount of federal funds for the project or program.

In addition to the above, a special condition is placed on all grants which require all releases of information to include the fact that the grant is through the West Virginia Division Justice and Community Services and the Bureau of Justice Assistance.

## Chapter 8

### PURCHASING PROCEDURES

#### A. General

The section sets forth procedures for purchasing supplies, equipment, and other services with Justice Assistance Grant funds. These procedures are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable law.

Subgrantees must use existing state, county or city purchasing regulations and procedures that reflect applicable federal, state and local laws when purchasing equipment and/or other items. For example, when making a purchase, the County Commission must follow the same day-to-day Commission procurement practices as it would for any routine county funded purchase.

Should you have technical questions or need interpretations regarding West Virginia purchasing laws, please contact West Virginia Division of Purchasing at (304) 558-2316.

#### B. Minimum Requirements

Grantees must establish and comply with the following procedures when purchasing materials and services with grant funds:

1. All purchasing transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or non-competitive practices among contractors, which may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work and/or RFPs for proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.
2. Proposed purchases shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicate items.

3. Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand that must be met by offerers should be clearly specified.
4. Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing grant funds.
5. The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contract, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. The "cost-plus-a-percentage of cost" method of contracting shall not be used.
6. Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (7) below is necessary to accomplish sound procurement. However, procurement of \$9,999 or less need not be so advertised unless otherwise required by state or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee price and other factors considered. (Factors such as discounts, transportation costs, taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements, which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable state and local law, rules, and regulations.
7. Procurements may be negotiated if it is impracticable and infeasible to use formal advertising. The term "negotiation" is used

to describe all procurements from the private sector that are made by means other than public advertising procedures. Unlike public advertising, negotiation generally involves discussion and bargaining with a view to reaching agreement on the prices and other terms of a proposed contract. It may also be used to obtain an equitable adjustment for a unilateral, grantee-directed change in a contract provision, or to resolve a mutually acceptable amendment or supplement to an existing contract.

Contrary to a commonly held belief, negotiation is in no sense synonymous with non-competitive (sole source) procurement. Although the method of procuring on a non-competitive basis, the general use of negotiation is not intended to preclude competition. In those instances when a contemplated procurement appears to be necessarily non-competitive, the grantee must not only assure that competition is not feasible, but also should take whatever actions are possible to foster competitive conditions for subsequent procurements of the same item. The objective of negotiation, as in public advertising, is to procure in the most effective manner and in the best interest of the grantee.

Public advertising is conducted in full public view, with the bid of each firm known to and examined by his competitors after bid opening. This is not true in competitive firms in which negotiations are not disclosed to competitors or the public and subsequent negotiations on the basis that these proposals are conducted individually with each offerer. Only after the execution of a contract is the successful firm made known and the terms and conditions of the contract disclosed. In this way competitive pressure is maintained throughout negotiations. Generally, procurements may be negotiated by the grantee if:

- a. The public exigency (requiring immediate aid or action) will not permit the delay incident to advertising;
- b. The material or service to be procured is available from only one person or firm: (All contemplated sole source procurements where the aggregate expenditure is expected to exceed \$9,999 shall be referred to DCJS for prior approval.) Proposed formal advertised or competitive negotiated procurement for which only one bid or proposal is received is deemed to be, for purposes of this paragraph, a sole source procurements. Interagency contracts where the

work is performed by a state governmental agency, including a state university, does not require approval:

- c. The aggregate amount involved does not exceed \$9,999;
- d. The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions;
- e. No acceptable bids have been received after formal advertising;
- f. The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;
- g. Otherwise authorized by law, rules, or regulations.

Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practical.

- 8. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.
- 9. Procurement records or files for purchases in amount in excess of \$9,999 shall provide at least the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.
- 10. A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

### **C. Contract Provisions**

In addition to providing a sound and complete agreement, the grantee shall include the following provisions:

1. Contract shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
2. All contracts, amounts for which are in excess of \$9,999 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. All contracts awarded by grantees shall include a provision to the effect that the grantee, the grantor agency, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.
4. Each contract awarded by a grantee shall provide that the recipient will comply with all applicable federal, state and local regulations and standards. The successful contractor(s) and/or subcontractor(s) receiving this project shall comply with the equal employment provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U. S. C. 200d et seq.); Presidential Executive Order 11246, as amended by Presidential Executive Order 11375; as well as provisions of the West Virginia Human Rights Act, as amended (Section 5-11-1 of the Code of West Virginia). The successful contractor shall comply with the West Virginia Act on Wages on Construction of Public Improvements (Article 5A, Chapter 21 of the WV Code-see attached) and shall pay the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workman needed to perform the contract (please contact the Secretary of State's Office at 558-6000 for the Fair Minimum Wage Rate for your particular county). Violations shall be reported to the

Division of Criminal Justice Services and the local Internal Revenue Service field office.

**D. Approval of Contracts**

Prior to entering into any contract that will be paid in whole or in part with grant funds, a copy of the proposed contract must be submitted to DJCS for review and approval. This is to assure that the above provisions have been included in the proposed contract. In addition, grantees must submit to DJCS the selection basis (i.e., competitive bids, competitive negotiations, or sole source procurement) used in awarding the proposed contract. Copies of bids, proposals, or other documentation, which would support selection basis, must also be provided.

**E. Consultant Rates**

Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the market place. Consideration will be given to compensation including fringe benefits for those individuals whose employers do not provide the same. In addition, the rate cannot exceed \$450 (excluding travel and subsistence costs) for an eight-hour day and written PRIOR APPROVAL is required from DCJS. An eight-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. Please note, however, that this does not mean that the rate can or should be \$450 for all consultants. Rates should be developed and reviewed on a case-by-case basis and must be reasonable and allowable in accordance with OMB cost principles. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services. **If consultants are hired through a competitive bidding process (not sole source), the \$450 threshold does not apply.**

1. Consultants Associated with Educational Institutions. The maximum rate of compensation that will be allowed is the consultant's academic salary projected for 12 months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work nine months per year in their academic positions.
2. Consultants Employed by State and Local Government. Compensation for these consultants will only be allowed when the unit of government will not provide these services without cost. If a State or local government

employee is providing services under a Federal grant and is representing their agency without pay from their respective unit of government, the rate of compensation is not to exceed the daily salary rate for the employee paid by the unit of government. If the State of local government employee is providing services under a Federal grant and is not representing their agency, the rate of compensation is based on the necessary and reasonable cost principles.

3. Consultants Employed by Commercial and Not-For-Profit Organizations. These organizations are subject to competitive bidding procedures. Thus, they are not subject to the \$450 per day maximum compensation threshold before requesting prior approval. In those cases where an individual has authority to consult without employer involvement, the rate of compensation should not exceed the individual's daily salary rate by his/her employer subject to the \$450 limitation.
4. Independent Consultants. The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the market place. Compensation may include fringe benefits. In summary, consultants obtained through competitive bidding do not require prior approval, including individual consultants.

## Chapter 9

### PROPERTY AND EQUIPMENT MANAGEMENT STANDARDS

#### A. General

All grantees utilizing grant funds for the acquisition of property must comply with these standards and are responsible for establishing and maintaining systems for the effective management of property acquired.

#### B. Definitions

The following definitions apply:

1. Real Property - Real property means land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
2. Personal Property - Personal property means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).
3. Nonexpendable Personal Property - Nonexpendable personal property means tangible personal property having a useful life of one year or more and an acquisition cost of over (\$1,000 Task Forces) (\$5,000 All Other Projects) per unit.
4. Expendable Personal Property - Expendable personal property refers to all tangible personal property other than nonexpendable property.

#### C. General Standards

Grantees must comply with the following property management standards:

1. Acquisition - Grantees are required to be prudent in the acquisition and management of equipment acquired with grant funds. Expenditures of grant funds for acquisition of new equipment, when suitable equipment required for the successful execution of a project is already available within the grantee organization will be considered unnecessary expenditures.
2. Loss, Damage or Theft of Nonexpendable Property - Grantees shall be responsible for replacing or repairing equipment which is willfully or through negligence, lost, stolen, damaged or destroyed. Any loss, damage, or theft of nonexpendable property shall be investigated, fully documented and reported to DCJS.
3. Record Keeping Requirements - **Grantees are required to maintain a readily identifiable inventory of property purchased in whole or in part with grant funds. This inventory is to be made a part of the grantee's official records and be available for review by authorized state personnel.** Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; location, use, and condition of the property, and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share. See (Appendix D) for a sample Equipment Listing form. This form must be prepared and maintained for each piece of equipment which costs more than (\$1,000 Task Forces) (\$5,000 All Other Projects) and has a useful life of one year or more.

In addition to the above, grantee property management records should contain copies of the purchase order and invoice.

4. Inventory - A physical inventory of property shall be taken by the grantee and the results reconciled with the property records at least once every two years to verify the existence, current utilization and continued need for the property. The results of the inventory must be forwarded to DJCS for review and concurrence.
5. Controls - A control system shall be in effect to insure adequate safeguards to prevent loss, damage or theft to the property. Any loss, damage or theft of nonexpendable property shall be investigated, fully documented, and reported to DJCS.

6. Maintenance - Adequate maintenance procedures shall be established to keep the property in good condition.
7. Excess Property - Proper sales procedures shall be established for unneeded property which would provide for competition to the maximum extent practicable and result in the highest possible return.
8. Record Retention Period - Records for nonexpendable property which was acquired in whole or in part with federal grant funds must be retained for three years after final disposition of the nonexpendable property.

**D. Standards and Procedures for Specific Types of Property**

1. Expendable Personal Property - When the total inventory value of any unused expendable personal property exceeds \$500 at the expiration of need for any grant purposes, the grantee may retain the property or sell the property as long as it compensates the federal government for its share in the cost. The amount of compensation shall be computed by applying the percentage of participation in the grant program to the current fair market value of the property.
2. Real Property - Grantees shall use real property acquired in whole or in part with federal funds for the authorized purpose of the original grant as long as needed, whether or not the program or project continues to be supported by federal funds.

Initially, title to and accountability for real property acquired in whole or in part with grant funds in accordance with approved budgets is vested in the grantee. Upon completion of the grant project, grantees shall submit, as part of the final expenditure report, a description of the real property acquired in whole or in part with grant funds. Upon receipt and review of the final expenditure report, DJCS shall formally advise grantees within 90 days after receipt of the final expenditure report of the determination it has made relative to the use of real property acquired in part or in whole with federal funds. In this respect, DJCS may exercise one of two options.

- a. Permit the grantee to retain the real property acquired with federal funds as long as there is a need for the real property to accomplish the purpose of the program or project, whether or not the program or project continues to be supported by federal funds, provided that the use of such property is consistent with those objectives authorized for support by DJCS.
- b. Real property may be transferred to other grantees or activities needing the real property provided that use of such real property is consistent with those objectives authorized for support by DJCS.

When the real property is no longer needed as provided in (a) and (b) above, the grantee shall return all real property FURNISHED OR PURCHASED wholly with federal funds to the control of DJCS. In the case of real property purchased in part with federal funds, the recipient of such real property may be permitted to retain title upon compensating the federal government for their fair share of the property. Federal shares of the property shall be computed by applying the percentage of the federal participation in the total cost of the program for which the property was acquired to the current fair market value of the property. In those instances where in the recipient does not wish to purchase real property purchased in part with federal funds, disposition instructions shall be requested from DJCS.

3. Nonexpendable Personal Property - When nonexpendable personal property is acquired by grantees in whole or in part with grant funds, title will not be taken by the federal government, but shall be vested in the grantee subject to the restrictions set forth in the following paragraphs on the use and disposition of the property.

Upon completion of the grant project, each grantee must submit, as an attachment to its final expenditure report, an equipment listing identifying each piece of equipment purchased in whole or in part with grant funds. Upon receipt and review of the final expenditure report, DJCS shall formally advise the grantee, within 90 days after receipt of the final expenditure report, of the determination it has made relative to the use of the equipment. In this respect, DJCS may exercise one of two options:

- a. Permit the grantee that initially purchased such equipment in whole or in part with grant funds to retain such equipment provided that the grantee certifies on the equipment listing form that it will use the property consistent with those objectives authorized for support by DJCS.
- b. Permit the nonexpendable property to be transferred to other Grantees needing the property provided that these recipients make written assurance that they will use the property consistent with those objectives authorized for support by DJCS.

When a recipient of nonexpendable property purchased in whole or in part with grant funds no longer has need for the property in any of its programs, projects, or activities, the recipient shall notify DJCS in writing of this fact and request disposition instructions. DJCS will use the following standards in making final disposition of the property.

- a. Nonexpendable property with a unit acquisition cost of less than \$1,000. DJCS may permit the recipient to use the property without reimbursement to DJCS or sell the property and retain the proceeds.
- b. Nonexpendable property with a unit acquisition cost of \$1,000 or more.
  - (1) DJCS may permit the recipient to retain the property for other uses provided compensation is made to DJCS. The amount of compensation shall be computed by applying the percentage of federal participation in the cost of the original program under which the grant was funded to the current fair market value of the property.
  - (2) DJCS may instruct the recipient to ship the property elsewhere. The recipient shall be reimbursed by the beneficiary with an amount which is computed by applying the percentage of the recipient's participation in the costs of the program under which the grant was funded to the current fair market of the property, plus any reasonable storage cost incurred.

- (3) DJCS may instruct the recipient to sell the property and reimburse DJCS an amount which is computed by applying the percentage of federal participation in the cost of the original program under which the grant was funded to the current fair market value of the property. The recipient is permitted to retain \$100 or ten (10) percent of the proceeds, whichever is greater, for selling and handling expenses.
- (4) When DJCS determines that nonexpendable property which has been purchased wholly with federal funds and has an acquisition cost of \$1,000 or more, is unique, difficult or costly to replace, DJCS may reserve the right to require the recipient to transfer the property to the control of DJCS or directly to a third party named by DJCS when such third party is otherwise eligible under existing regulations. Such reservation shall be subject to the following standards:
  - (a) The property shall be appropriately identified in the DJCS grant agreement or otherwise made known to the recipient.
  - (b) DJCS shall issue disposition instructions within 90 calendar days after the end of DJCS support of the project for which it was acquired.

**E. Replacement of Property**

When an item of nonexpendable personal property with an acquisition cost of \$1,000 or more is no longer efficient or serviceable but the recipient continues to need the property, the recipient may replace the property with its own funds through trade-in or sale and purchase of new property, provided the following requirements are met:

1. Similar Function - Replacement property must serve the same function as the original property and is of the same nature or character, although not necessarily of the same grade or quality.
2. Credits - Value credited for the property, if the property is traded in, must be related to its fair market value.
3. Time - Purchase of replacement property must take place soon enough after the sale of nonexpendable property to show that the sale and the purchase are related.
4. Compensation - Replacement of property under this paragraph is not a disposition of such property. The recipient is not required at the time of replacement to compensate the federal government for their shares of the property; rather, the federal share shall be transferred to the replacement property with an appropriate adjustment as provided in section 5 (below). The replacement property shall be subject to the same instruction on use and disposition as the property replaced.
5. Calculation of Federal Shares - The federal shares of the replacement property shall be calculated as follows:
  - a. The proceeds from the sale of the original property or the amount credited for trade-in shall be multiplied by the federal share (percentage) to produce a dollar amount.
  - b. The percentage ratio of the dollar amount to the total purchase price of the replacement property shall be the federal share of the replacement property.
6. Prior Approval - Recipients of grant funds must obtain the written permission of DJCS to use the provision of this paragraph prior to entering into negotiation for the replacement or trade-in of nonexpendable property.

## Chapter 10

### MONITORING

#### A. General

West Virginia Division Justice and Community Services staff or designated representative shall make at least one on-site visit to each grant program during the project period to monitor the performance of grant-supported activities. Site visits will:

1. Determine progress made toward achieving project goals and objectives;
2. Determine compliance with terms, conditions, and purpose of grant;
3. Identify technical assistance needs; and
4. Provide guidance of future design or funding of similar projects.

A formal monitoring report will be prepared and distributed to the grantee outlining the findings of the monitoring visit.