Subject: Consultant Rate and Noncompetitive Procurement (e.g., Sole Source) Contract Prior Approval Thresholds for Grants and Cooperative Agreements

Effective June 1, 2014, for future awards and current active grant and cooperative agreement awards, the Office of Justice Programs (OJP) is increasing the Consultant Rate Threshold to \$650 per day, and the prior approval threshold for noncompetitive procurements (e.g., Sole Source) to \$150,000.

## **Consultant Rate:**

Compensation by grant and cooperative agreement recipients for individual consultant services is to be reasonable and consistent with that paid for similar services in the marketplace. For more information please see the <u>OJP Financial Guide - Consultant</u> <u>Rate</u>.

## New Consultant Rate Agreements on or after June 1, 2014:

- The OJP consultant rate maximum limit is \$650 per day or \$81.25 per hour for new consultant rate agreements executed on or after June 1, 2014.
- This limit replaces the limit specified in the terms and special conditions of current active awards, and is only applicable for new consultant rate agreements executed on or after June 1, 2014.
- When the rate exceeds the limit for an 8-hour day, or a proportionate hourly rate (excluding travel and subsistence costs), a prior written approval is required from OJP. Prior approval requests require additional justification.
- An 8-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 the maximum limit for all consultants.
  - Consultant rates should be consistent with current market value for the service.
  - The consultant rate agreement file must contain a documented market analysis and justification of the agreed upon rate. Consultant expenditures without this supporting documentation may be questioned during an audit or monitoring review.
  - Resources to determine current market value include:
    - Competitive contract bids
    - The Bureau of Labor Statistics Wage Data by Area and Occupation web site <u>http://www.bls.gov/bls/blswage.htm</u>

## Existing Consultant Rate Agreements before June 1, 2014:

• OJP will not approve budget changes as a result of increases to the rate for a previously existing consultant rate agreement established before June 1, 2014.

- Consultant rate agreements negotiated and executed prior to June 1, 2014 required prior approval from the awarding agency, documented through a Grant Adjustment Notice (GAN), if market conditions necessitated a rate exceeding the current rate of \$450 per day.
- Increases in the consultant rate for an agreement executed prior to June 1, 2014, and with a contract term end date after June 1, 2014, may be questioned as unreasonable during an audit or monitoring review.
  - For example, a consultant rate agreement at \$450 per day with a contract term of November 1, 2012, through September 30, 2015, may not be renegotiated for the sole purpose of increasing the consultant rate to \$650 per day.

## Noncompetitive Procurement (e.g., Sole Source) Contract Prior Approval Threshold

All noncompetitive (e.g., sole source) procurements by grant and cooperative agreement recipients in excess of \$150,000, which is currently the Simplified Acquisition Threshold stated in the Federal Acquisition Regulations, must receive prior approval from the awarding agency. (The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908.)

• This threshold limit replaces the limit specified in the terms and special conditions of current active awards for contracts executed after June 1, 2014.

A noncompetitive (e.g., sole source) procurement process may be used when you can document:

- The item or service is available only from a single source;
- A true public exigency or emergency exists; or
- After a competitive solicitation, competition is considered inadequate.

If you have any questions, please contact your grant manager or the Customer Service Center at 1-800-458-0786 (TTY: 202-616-3867) or e-mail <u>ask.ocfo@usdoj.gov</u>.