

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

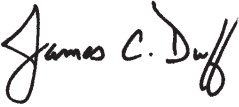
WASHINGTON, D. C. 20544

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GUIDE TO JUDICIARY POLICY

TRANSMITTAL 14-009 VOLUME/PART 14 CHAPTER(S) 1-3

TO: Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts
Chief Probation Officers
Chief Pretrial Services Officers
Bankruptcy Administrators
Circuit Librarians
Certified Contracting Officers

FROM: James C. Duff 

RE: **PROCUREMENT**

This transmittal provides notice of changes to the *Guide to Judiciary Policy*, Vol. 14 (Procurement):

[Chapter 1 – Overview](#)
[Appendix 1D – Contracting Officers' Certification Program – Level 1 Purchase Card Program](#)
[Appendix 1F – Contracting Officers' Certification Program – Level 3](#)
[Chapter 2 – Procurement Planning and Preparation](#)
[Chapter 3 – Purchasing Methods](#)

These chapters and appendices were updated:

- to clarify that the competition threshold for open market purchases of training products and services is \$25,000;
- to raise the competition threshold for open market purchase of all other products and services from \$5,000 to \$10,000; and
- to expand the authority delegated to chief judges and other judiciary officers so they can approve justifications for purchases up to \$25,000 using less than full and open competition for *all* products and services, not simply *information technology* products and services.

The significant changes are detailed in the Redline Comparison below.

Questions regarding this transmittal may be directed to the AO Department of Administrative Services, Budget, Accounting, and Procurement Office, Procurement Management Division, at 202-502-1330.

REDLINE COMPARISON REFLECTING CHANGES

[Significant changes in Chapter 1 (Overview) follow:]

§ 140 Contracting Officers Certification Program

[. . .]

§ 140.20 Level 1 Certification: Purchase Card Program

[. . .]

§ 140.20.30 Level 1 Delegation

A delegation of Level 1 authority includes use of the judiciary purchase card for:

- open market procurements, with or without competition, up to \$510,000 per purchase, [. . .]

§ 140.30 Level 3 Certification: General Delegation

[. . .]

§ 140.30.30 Level 3 Delegation

A delegation of Level 3 authority includes:

- (a) Open market procurements, with or without competition, up to \$510,000 per purchase. As noted above, this delegation does not include COCP Level 1 purchase card procurement authority, unless the individual has completed the training requirements for Level 1 and the AO-375 specifically delegates both Level 1 and 3. **See also:** [§ 140.20 \(Level 1 Certification: Purchase Card Program\)](#).
- [. . .]
- (g) ~~IT-p~~Procurements using less than full and open competition up to \$25,000 with signed approval of the chief judge or other judiciary official identified at [§ 120.20.10\(b\) \(Delegation to Chief Judges and Certain Judiciary Officials\)](#) (or PLO, if delegated).
- [. . .]
- (m) Contract modifications up to \$100,000 within scope of the contract . See also: Guide, Vol 14, §745.20.20 Determination of "Within Scope."

§ 140.30.40 Delegation Limitations

- (a) In addition to the exclusions stated at [§ 120.20.10\(b\)\(2\) \(Delegation to Chief Judges and Certain Judiciary Officials\)](#), a delegation of Level 3 authority does not include authority for the following procurements:
- best value competitive procurements of any dollar amount;
 - ~~sole source procurement of non-IT products~~procurements ~~over~~ services, except \$10,000 (\$25,000 for training products or services, above the \$5,000 competition threshold; or) awarded without competition.
 - ~~sole source procurement of training products or services above the separate \$25,000 competition threshold applicable to these products or services.~~

[. . .]

REDLINE COMPARISON REFLECTING CHANGES

[Significant changes in Appendix 1D (Contracting Officers' Certification Program – Level 1 Purchase Card Program) follow:]

Contracting Officers' Certification Program – Level 1 [table]

Dollars	Conditions
Up to <u>\$510,000</u> per purchase	open market (with or without competition) using the purchase card only
Types of Actions	
Small Purchase Purchase Orders	open market small purchases using the purchase card up to <u>\$510,000</u> per purchase;
[. . .]	no authority to sign purchase orders is delegated
Procurement Method	
Other Than Full and Open Competition Procurement Actions (over <u>\$510,000</u>)	not delegated
<u>Competitive</u> Lowest Price Technically Acceptable Competitive Open Market Procurements [. . .]	up to <u>\$510,000</u> : delegated

[Significant changes in Appendix 1F (Contracting Officers' Certification Program – Level 3) follow:]

Contracting Officers' Certification Program – Level 3 [table]

Dollars	Conditions
[. . .] Unlimited	A <u>judiciary-wide</u> and other agency contracts: see other conditions below
Types of Actions	
Noncompetitive open market procurements	<u>up to \$10,000 for all purchases (other than training products or services)</u> up to \$25,000 for training products and services <u>above \$10,000 but not more than \$25,000 for products and services (other than training products or services) with signed approval of the chief judge or other judiciary official</u> up to \$5,000 for all other purchases. (For guidance on granting procurement authority to an individual for multiple COCP levels, see: Guide, Vol 14, § 140.30.20 (Authority).)
Competitive Small Purchase Open Market Purchase Orders	<u>Competitive lowest price technically acceptable procurement</u> up to \$100,000: delegated
Commercial/License/Special Use Agreements	<u>as supplements and conditions to purchases conducted within the authorized delegation: delegated up to \$100,000: delegated including short term use of conference and meeting facilities as authorized by 41 CFR 102-73.155(p). Authority to enter into any agreement for the use of facilities or space on continuous basis is not delegated.</u>

REDLINE COMPARISON REFLECTING CHANGES

<p>Competitive Open Market Contracts and Contract Modifications</p>	<p><u>within scope modifications</u> up to \$100,000: delegated</p>
<p>Orders Under Contracts Awarded by Judiciary or Other Federal Agencies</p> <p>[. . .]</p>	<p>Authorized for competitive lowest price technically acceptable orders placed under:</p> <p>(1) GSA federal supply schedules for IT up to the specified maximum order threshold.</p> <p>[. . .]</p>
<p>Procurement Method</p>	
<p>Other Than Full And Open Competition Procurements</p> <p>[. . .]</p>	<p>Up to \$25,000: IT products or services</p> <p>Unlimited:</p> <p>(1) Transit Passes/Vouchers</p> <p>(2) Purchase of non-commercial products or services only available from state/local government entities</p> <p><u>up to \$10,000: all purchases (other than training products or services)</u></p> <p><u>up to \$25,000: training products and services</u></p> <p><u>above \$10,000 but not more than \$25,000: products and services (other than training products or services) with signed approval of AO 370 in support of above must be approved by the chief judge or other judiciary official identified at § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials) (or PLO, if delegated):</u></p> <p>All other <u>non-competitive</u> purchases exceeding the applicable competition threshold: not delegated.</p>
<p><i>[Significant changes in Chapter 2 (Procurement Planning and Preparation) follow:]</i></p> <p>§ 210 Policy [. . .]</p> <p>§ 210.60 Market Research [. . .]</p> <p>§ 210.60.20 Market Research Methods [. . .]</p> <p>(b) Market research generally does not include the temporary “trial” or “demonstration” use of equipment/products delivered to and used within the court unit facilities. Only if it can be definitely determined that the eventual purchase will not exceed the applicable competition threshold — \$510,000 for open market purchases (<u>\$25,000 for training products</u>); \$3,000 for GSA schedule purchases — may equipment or products be used on a “trial” basis in this manner.</p> <p>[. . .]</p>	

REDLINE COMPARISON REFLECTING CHANGES

[Significant changes in Chapter 3 (Purchasing Methods) follow:]

§ 310 Procurement Sources

[. . .]

§ 310.80 Vendors Offering Services for Public Use

[. . .]

§ 310.80.30 Competition

[. . .]

(b) The level of competitive procurement procedures to be ~~following~~followed will be based on a reasonable estimate of the income the vendor expects to derive from payments by the public users over a stated period of time (such as one year) and any cost to the court.

(1) A minimum of three quotes must be solicited if the estimate is more than \$510,000 for open market services, but not more than \$25,000.

[. . .]

§ 325 Small Purchase Procedures

[. . .]

§ 325.15 Open Market With or Without Competition

§ 325.15.10 Competition Threshold

In the judiciary, open market purchases for \$10,000 (~~\$25\$5,000~~ for training products and services) or less may be made without obtaining competitive quotations, provided that the CO determines the price to be reasonable.

§ 325.15.20 Verifying Price Reasonableness

The administrative cost of verifying the reasonableness of the price for purchases within the \$10,000 (~~\$25\$5,000~~ for training products and services) competition threshold may more than offset potential savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need only be taken if: [. . .]

§ 325.15.30 Vendor Rotation

Where practicable, noncompetitive purchases within the \$10,000 (~~\$25\$5,000~~ for training products and services) competition threshold must be distributed and rotated equitably among qualified suppliers. A quotation must be obtained from other than the previous supplier before placing a repeat order.

§ 325.45 Ordering Methods Under Small Purchase Procedures

[. . .]

§ 325.45.45 Competition Using Multiple Award BPAs

[. . .]

§ 325.45.45(b) Competing a Call [table]

Purchase Estimate

Action

(1) Less than the applicable competition threshold (~~see: § 310.50.43(a) for definition of GSA competition threshold for BPA's awarded under a GSA schedule contract; \$5,000 for all other BPAs~~).
[. . .]

The calls do not need to be competed. However, they should be rotated among the priced Multiple Award BPA holders for the same class of products or services.

REDLINE COMPARISON REFLECTING CHANGES

Note: For definition of GSA competition threshold for BPAs awarded under a GSA schedule contract, **see:** [§ 310.50.43\(a\)](#). For definition of competition threshold for open market judiciary BPAs, **see:** [§ 325.15.10](#).

§ 330 Standard Competitive Contracting Procedures

§ 330.10 Applicability

[. . .]

§ 330.10.30 Provisions and Clauses

The CO will include the following clauses and provisions in all solicitations exceeding the judiciary's small purchase threshold (**see:** [§ 325.10](#)) unless the prescription indicates otherwise.

[. . .]

(nn) Court organizations that are capable of making payment by electronic funds transfer (EFT) will incorporate the following clauses as indicated:

(1) [Clause 3-300, Central Contractor Registration](#) is included in solicitations and contracts except when:

(A) the contract is awarded under circumstances of urgent and compelling need;

(B) the contractor is a foreign vendor; or;

(C) awards under ~~\$10,000~~ ~~(\$25\$5,000~~ [for training products and services](#)) that do not use EFT for payment.

[. . .]

§ 335 Other than Full and Open Competition

§ 335.10 In General

[. . .]

§ 335.10.40 Written Justification Not Required

The procedures of this section do not apply to the following:

[. . .]

(d) purchases not expected to exceed the ~~non-competitive~~[applicable](#) open market ~~small purchase~~[competition](#) threshold- (**see:** [§ 325.15.10](#));

[. . .]

§ 335.30 Justification for Other Than Full and Open Competition

§ 335.30.10 In General

(a) The CO must not award any contract for which competition is required without providing for full and open competition unless the CO justifies it in writing, and receives the required written approval from the purchasing office's chief judge, FPD, FJC Director, or, in the AO, the PE.

[. . .]

(b) This requirement applies whether the purchase is made under GSA schedule, where the GSA's competition threshold applies (for definition, **see:** [§ 310.50.43\(a\)](#)), or as an open market purchase where the judiciary competition threshold of ~~\$10,000~~ ~~(\$25\$5,000~~ [for training products and services](#)) applies.