

# ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WASHINGTON, D. C. 20544

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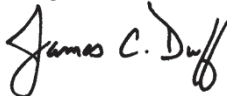
## GUIDE TO JUDICIARY POLICY

TRANSMITTAL 14-011 VOLUME/PART 14 CHAPTER(S) 1-7

**TO:** Circuit Executives  
Federal Public 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 1K – Required Training by Certification Level \(Contracting Officers Certification Program\)](#)

[Chapter 2 – Procurement Planning and Preparations](#)

[Chapter 3 – Purchasing Methods](#)

[Chapter 4 – Types of Contracts and Analysis of Offers](#)

[Chapter 5 – Special Categories of Procurements](#)

[Chapter 6 – Bonds, Insurance, Taxes, and Intellectual Property](#)

[Chapter 7 – Contract Administration](#)

The General Services Administration's Federal Supply Schedule competition threshold was increased from \$3,000 to \$3,500, and a required training item in Appendix 1K was restored after being inadvertently removed last March.

Other changes were designed to improve clarity. References to court units, judiciary agencies, and federal public defender organizations were replaced by the phrase "judiciary organizations," which is defined in Chapter 1 along with the phrase "court unit." The AO recipient of special delegations of procurement authority was changed from "Procurement Executive (PE)" to "Procurement Management Division (PMD)." Since there are numerous instances of such changes throughout Volume 14, they are included in the Redline Comparison below only when part of a revised provision containing other significant changes.

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

**REDLINE COMPARISON REFLECTING CHANGES**

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

**§ 110 Overview**

[. . .]

**§ 110.40 Applicability**

- (a) This volume applies to: the ~~federal~~following judiciary, ~~including organizations:~~
- all United States courts, and their subordinate organizations; except as noted in § 110.40(b);
  - [. . .]
  - all other judiciary organizations and programs within the scope of the authority of the Director of the AO, except as noted in § 110.40(b).
- (b) This volume does not apply to the:
- United States Supreme Court,
  - United States Sentencing Commission, or
  - community defender organizations (unless specified by the terms of the individual grant agreement).

**§ 110.80 Previous Guidance**

All previous editions of the *Guide*, ~~AO memoranda, and any other written instructions or practices~~ are superseded by information in this volume.

**§ 140 Contracting Officers Certification Program**

[. . .]

**§ 140.15 Certification Level Overview**

[. . .]

**§ 140.15.30 Appointment Process for PLOs and COs (Levels 1-3) [table]**

Stage	Description
3	The PLO selects and appoints one or more individuals as a CO at <del>a COCP level within the court unit's levels 1, 2, or federal public defender organization's general delegation</del> <sup>3</sup> . <u>The PLO can appoint a CO to more than one of authority the aforementioned levels, provided they complete the associated training for those levels. See also: § 130.40.30 (Responsibilities).</u>

**REDLINE COMPARISON REFLECTING CHANGES**

**§ 140.25 Level 2 Certification: Special Program Delegation**

[. . .]

**§ 140.25.50 Required Contract Documents**

Approved ~~boilerplate~~-contracting ~~documents~~document templates, as applicable to each program, must be used. Program policies, procedures, and ~~boilerplate documents~~document templates are available in the JNet Procurement area of the JNet.

**§ 150 Procurement Integrity and Ethics**

[. . .]

**§ 150.40 Standards of Conduct**

[. . .]

**§ 150.40.20 Prohibitions on Purchasing from Relatives or Judiciary Employees**

[. . .]

(b) If a compelling reason exists for such an award, full information and justification must be provided to ~~the PEPMD~~, for consideration of an approved written exception, before award.

*[Significant changes in Appendix 1K (Required Training by Certification Level (Contracting Officers Certification Program)) follow:]*

Required Training	Hrs	Certification Level						
		1	2	3	4	5	6	7
<u>Specialized Training Programs Offered by the Responsible Program Office and AO [hours vary by program]</u>			X					

*[Significant changes in Chapter 2 (Procurement Planning and Preparations) follow:]*

**§ 210 Policy**

[. . .]

**§ 210.20 Roles and Responsibilities**

[. . .]

(b) Purchasing Office

(1) For ~~a court unit, federal public defender organization (FPDO), the Federal Judicial Center (FJC), or the Judicial Panel on Multidistrict Litigation (JPML), the purchasing office is the office where the procuring function resides.~~

~~(2) In judiciary organizations, excluding the Administrative Office of the U.S. Courts (AO), the purchasing office is ~~its~~the office where the procuring function resides.~~

(2) In the AO, the purchasing office is the AO's Procurement Management Division (PMD).

[. . .]

(3) However, the planning for major purchases is the responsibility of the court unit executive or equivalent.

**REDLINE COMPARISON REFLECTING CHANGES**

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

**§ 310 Procurement Sources**

[. . .]

**§ 310.50 GSA Federal Supply Schedules**

[. . .]

**§ 310.50.43 Required Ordering Procedures *[table]***

Procedure	Details
(a) Orders at or below GSA’s competition threshold (generally \$3, <del>500</del> 0), except for (1) procurement of construction subject to Davis-Bacon Act (which is \$2,000); and (2) procurement of services subject to the Service Contract Act (which is \$2,500) [. . .]	[. . .]

**§ 310.50.46 Additional Ordering Procedures *[table]***

Type of Order	Details
(a) For orders exceeding GSA’s competition threshold (generally \$3, <del>500</del> 0), except for (1) procurement of construction subject to Davis-Bacon Act (which is \$2,000) and (2) procurement of services subject to the Service Contract Act (which is \$2,500), but not exceeding the maximum order threshold [. . .]	[. . .]

**§ 315 Publicizing Open Market Procurement Actions**

[. . .]

**§ 315.10 Policy**

[. . .]

**§ 315.10.30 Exceptions**

Exceptions to the advertising requirements are as follows:

[. . .]

- (c) when only one source of supply is available and the CO executes the appropriate determination required under [§ 335](#); or

**(Note:** Written concurrence by the ~~chief judge, FPD, or Director, FJC, purchasing office’s official, as identified in Guide, Vol. 14, § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials)~~, is required within their delegation authority. Advertising exceptions above the ~~court unit’s judiciary organization’s~~ delegation authority, as well as all exceptions at any dollar level within PMD, require the PE’s written concurrence.)

[. . .]

**§ 335 Other than Full and Open Competition**

**§ 335.10 In General**

[. . .]

**§ 335.10.30 Limitations on Use**

Contracting without providing for full and open competition must be approved in writing as set forth in [§ 335.30](#) by the purchasing office’s ~~chief judge, FPD, or FJC Director, official, as identified in Guide, Vol. 14, § 120.20.10(b)~~, or, for purchases not within the ~~court unit’s judiciary organization’s~~ general delegation (**see:** [Guide, Vol. 14, § 120.20.10\(b\) \(Delegation to Chief Judges and Certain Judiciary Officials\)](#)), by ~~the PEPMD~~.

## REDLINE COMPARISON REFLECTING CHANGES

### § 335.20 Circumstances Permitting Other than Full and Open Competition

Competition must be sought for any open market purchase expected to exceed the competition threshold (see: [§ 325.15.10](#)) except when:

[. . .]

(d) an unsolicited offer acceptably meets the criteria in [§ 340.60](#).

**Note:** The exceptions of (b), (c) and (d) above are subject to the delegation authority of the ~~court unit, FPDO, or FJC~~purchasing office's official, as identified in Guide, Vol. 14, § 120.20.10(b). Above the delegation authority, ~~PMD's~~the PE's written concurrence is required.

### § 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 official, as identified in Guide, Vol. 14, § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials), or, in the AO, the PE.~~ **See also:** [§ 310.50.33](#), which explains that sole source is generally not appropriate for GSA schedule orders for services, and [§ 310.50.63](#), which explains that "brand name" specifications are considered sole source and must be supported by a sole source justification.

[. . .]

*[Significant changes in Chapter 4 (Types of Contracts and Analysis of Offers) follow:]*

### § 410 Contract Types

[. . .]

#### § 410.30 Indefinite-Delivery Contracts

##### § 410.30.10 Description

[. . .]

(b) The judiciary uses two types of indefinite-delivery contracts – indefinite-delivery/indefinite-quantity (IDIQ) contracts and requirements contracts.

##### § 410.30.20 Application

An ~~indefinite-delivery~~IDIQ contract may be used when it is known or anticipated that there will be a recurring need for products or services over a period of time, but specific quantities, times, and/or places of delivery are not known at the time of contract award.

## REDLINE COMPARISON REFLECTING CHANGES

*[Significant changes in Chapter 5 (Special Categories of Procurements) follow:]*

### § 520 Expert and Consultant Nonpersonal Services Contracts

[. . .]

#### § 520.55 Services Exceeding One Year

Contracts for intermittent expert or consultant services may include options to extend the period of performance for additional years. **See:** [Guide, Vol. 14, § 220.40 \(Options\)](#). However, since temporary services, by definition, are not to exceed one year, a contract for temporary expert or consulting services must not include an option to extend the period of performance beyond one year and cannot be extended by modification. When additional services are required, a new contract must be awarded subject to the requirements and limitations of this section. ~~**See:** [§ 520.35 \(Limitations\)](#) (i.e., [§ 520 \(Expert and Consultant Nonpersonal Services Contracts\)](#)).~~

### § 530 Architect-Engineer Contracts

[. . .]

#### § 530.20 Architect-Engineer Evaluation Board

##### § 530.20.10 Composition of Board

When procuring architect-engineer services, the Procurement Liaison Officer (PLO) ~~or equivalent in the court unit, Federal Public Defender Organization (FPDO), or Federal Judicial Center (FJC), judiciary organization~~ or the Procurement Executive (PE) ~~in the AO,~~ must establish an architect-engineer evaluation board composed of at least three members. [. . .]

### § 550 Interagency Agreements and MOUs for Obtaining Products and Services

[. . .]

#### § 550.30 Limitations

[. . .]

##### § 550.30.50 Exceeding Delegation Authority

Proposed IAs or MOUs that exceed the general delegation authority amount, or for which authority is specifically not delegated ~~under [§ 550.30.40 \(Authority Not Delegated\)](#),~~ must be forwarded to ~~the PEPMD~~ for review and coordination with other AO offices, such as ~~OHR~~ ~~the AO's Human Resources Office (HRO) or the AO's Office of the General Counsel (and OGC).~~ ~~PMD will issue a~~ one-time delegation of procurement authority will be issued upon concurrence of all coordinating offices.

*[Significant changes in Chapter 6 (Chapter 6 – Bonds, Insurance, Taxes, and Intellectual Property) follow:]*

### § 610 Bonds

#### § 610.10 In General

[. . .]

- (d) If contemplating the requirement of a bond, the contracting officer (CO) must submit that request to the Procurement ~~Executive (PE) for written approval before including~~ Management Division (PMD) of the AO's Budget, Accounting and Procurement Office (BAPO). PMD must issue a one-time delegation of procurement authority before the CO may include the requirement for a bond in the solicitation.

## REDLINE COMPARISON REFLECTING CHANGES

### § 620 Sureties and Bond Alternatives

[. . .]

#### § 620.20 Deposit of Assets Instead of Surety Bonds

[. . .]

##### § 620.20.20 Acceptable Assets

The only assets acceptable in place of a surety bond are described below:

[. . .]

- (b) A certified check, cashier's check, bank draft, postal money order, or currency. The deposit must be at least equal to the penal amount of the surety bond and payable to the finance office of the judiciary organization which required the bond (i.e., individual court unit, Federal [Judicial Center \(FJC\)](#), [Judicial Panel on Multidistrict Litigation \(JPML\)](#), [Federal Public Defender Organization \(FPDO\)](#), ~~[Federal Judicial Center \(FJC\)](#)~~ or the AO's Finance and Accounting Division (FAD) or other judiciary organization).

*[Significant changes in Chapter 7 (Contract Administration) follow:]*

### § 740 Payments

#### § 740.10 In General

[. . .]

##### § 740.10.20 Partial Payments

- (a) A partial payment is any payment for accepted products or services that are only a part of the total requirement (e.g., payment for delivery of less than the full quantity of computers ordered, or for completion of one month of 12 in a fixed price service ~~out of a one-year~~ contract). Contractors may be paid for partial delivery of products or performance of services unless the contract specifically prohibits partial payments. Partial payment is a method of payment, not a method of contract financing. Partial payments can assist contractors to participate in judiciary contracts with minimal or no contract financing. For contract financing, **see:** [Guide, Vol. 14, § 220.55 \(Contract Financing\)](#).