

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

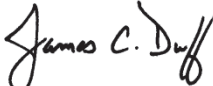
WASHINGTON, D.C. 20544

Date: 11/03/2017

GUIDE TO JUDICIARY POLICY

TRANSMITTAL 14-012 VOLUME/PART 14 CHAPTER(S) 1, 2

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 *Guide to Judiciary Policy*, Volume 14 (Procurement):

[Chapter 1 – Overview](#)
[Chapter 2 – Procurement Planning and Preparations](#)

In Chapter 1, the Second Chance Act was added as a COCP Level II Special Program Delegation. The program’s statutory authority and delegations are set forth, including:

- Procurement of products and services noncompetitively up to \$25,000 (41 U.S.C. § 6101).
- Authority to procure products and services between \$25,000 and \$100,000 using open market procedures, in the same manner as would be conducted under COCP Level 3 (*Guide*, Vol. 14, § 325.20 (Competitive Small Purchase Procedures)).
- Commercial advance payment authority for emergency and transitional housing, child care and job training related to Second Chance Act up to \$25,000 (28 U.S.C. § 604(g)(4)(C)).
- Authority to award a contract, purchase order or BPA order with administrative fees as a contract line item, only for certain project codes specified in the accompanying Second Chance Act Procurement Manual.
- Authority to procure products and services over \$100,000 but only with use of the Second Chance Act Template for Products and Services above \$100,000.

Guide Transmittal 14-012 – Procurement

The training courses now reflect their new names: Standard Competitive Contracting Procedures, Small Purchase Procedures, and Special Categories of Procurement. Chapter 1 is now also aligned with Appendix 1K, which was updated last year to reflect current training requirements.

In Chapter 2, emergency and transitional housing, child care, and job training related to Second Chance Act were added to the list of purchases that can be paid in advance.

These revisions also reflect stylistic changes to improve readability. The significant changes are detailed in the Redline Comparison below.

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:]

§ 120 Delegation of Procurement Authority

[. . .]

§ 120.40 Special Program Delegation

[. . .]

§ 120.40.15 AO Office with Primary Program Responsibility *[table]*

Program	Responsibility
<u>Second Chance Act Products and Services</u>	<u>Chief, Probation & Pretrial Services Office, Department of Program Services</u>

§ 120.40.25 Copy Center Services

[. . .]

(c) Training Requirements

This COCP Level 2 authority may be exercised only after completing the ~~Judiciary Basic Procurement Seminar (Course 3)~~ Small Purchase Procedures, and Appropriations Law for the U.S. Courts (Course 4), both available online, Standard Competitive Contracting Procedures, Special Categories of Procurement, and Appropriations Law for the U.S. Courts (all are available online), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.30 Court Interpreter Services

[. . .]

(d) Training Requirements

This COCP Level 2 authority may be exercised only after completing the ~~Judiciary Basic Procurement Seminar (Course 3)~~ Small Purchase Procedures, Appropriations Law for the U.S. Courts (Course 4), both Standard Competitive Contracting Procedures, Special Categories of Procurement, and Appropriations Law for the U.S. Courts (all are available online), and any specialized training programs offered by the responsible AO program office.

[. . .]

REDLINE COMPARISON REFLECTING CHANGES

§ 120.40.35 Court Reporting Services

[. . .]

(d) Training Requirements

This COCP Level 2 authority may be exercised only after completing ~~the [Judiciary Basic Procurement Seminar \(Course 3\)](#)~~[Small Purchase Procedures](#), [Appropriations Law for the U.S. Courts \(Course 4\)](#), ~~both~~[Standard Competitive Contracting Procedures](#), [Special Categories of Procurement](#), and [Appropriations Law for the U.S. Courts](#) (all are available online;), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.40 Law Books

[. . .]

(d) Training Requirements

This COCP Level 2 authority may be exercised only after completing ~~the [Judiciary Basic Procurement Seminar \(Course 3\)](#)~~[Small Purchase Procedures](#) and ~~Appropriations Law for the U.S. Courts (Course 4)~~, ~~both available online~~, [Standard Competitive Contracting Procedures](#), [Special Categories of Procurement](#), and [Appropriations Law for the U.S. Courts](#) (all are available online), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.45 Residential Halfway House Services

[. . .]

(d) Training Requirements

This COCP Level 2 authority may be exercised only after completing ~~the [Judiciary Basic Procurement Seminar \(Course 3\)](#)~~[Small Purchase Procedures](#), [Standard Competitive Contracting Procedures](#), [Special Categories of Procurement](#), and [Appropriations Law for the U.S. Courts \(Course 4\)](#), ~~both~~ (all are available online;), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.50 Treatment Services

[. . .]

(d) Training Requirements

Theis COCP Level 2 authority may be exercised only after completing ~~the [Judiciary Basic Procurement Seminar \(Course 3\)](#)~~[Small Purchase Procedures](#), [Standard Competitive Contracting Procedures](#), [Special Categories of Procurement](#), and [Appropriations Law for the U.S. Courts \(Course 4\)](#), ~~both~~ (all are available online;), and any specialized training programs offered by the responsible AO program office.

[. . .]

REDLINE COMPARISON REFLECTING CHANGES

§ 120.40.55 GSA Building Delegations

[. . .]

(c) Training Requirements

This COCP Level 2 authority may be exercised only after completing ~~the Judiciary Basic Procurement Seminar (Course 3)~~Small Purchase Procedures, Appropriations Law for the U.S. Courts (Course 4), both available online, and any training specified in the GSA building delegation, Standard Competitive Contracting Procedures, Special Categories of Procurement, and Appropriations Law for the U.S. Courts (all are available online), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.60 FPDO Case-Related Expert or Consultant Services

[. . .]

(c) Training Requirements

This COCP Level 2 authority may be exercised only after completing ~~the Judiciary Basic Procurement Seminar (Course 3)~~Small Purchase Procedures and Appropriations Law for the U.S. Courts (Course 4), both available online, Standard Competitive Contracting Procedures, Special Categories of Procurement, and Appropriations Law for the U.S. Courts (all are available online), and any specialized training programs offered by the responsible AO program office.

[. . .]

§ 120.40.65 Second Chance Act Products and Services

(a) Authority

- (1) Under 18 U.S.C. §§ 3672 and 3154, the Director has authority to contract for “treatment, equipment and emergency housing, corrective and preventative guidance and training, and other rehabilitative services designed to protect the public and promote the successful reentry of the offender into the community” as well as for the defendant.
- (2) The statutes authorize “providing necessary services to offenders. . .in a manner that does not confer luxuries or privileges upon such offenders” (42 U.S.C. § 17501(a)(4)). Additionally, the statutes may not “be construed as creating a right or entitlement to assistance or services for any individual, program, or grant recipient” (42 U.S.C. § 17504).
- (3) Congress intended the new authority to be exercised judiciously. Courts must be careful stewards of resources used under this authority. The Judicial Administration and Technical Amendments Act of 2008, Pub. L. No. 110-406 (October 13, 2008) (JATAA), significantly enhanced courts’ ability to provide interventions for defendants under 18 U.S.C. § 3154(4). The Act amended 18 U.S.C. § 3154(4) to include among pretrial services functions contracting or expending funds for services “necessary to protect the public and ensure that such persons appear in court as required.”

REDLINE COMPARISON REFLECTING CHANGES

§ 120.40.65 [cont'd]

(b) Delegation of Authority

The Director has delegated the following authority to chief judges of the United States district courts, for redelegation to PLOs, who may redelegate to COs, subject to the requirements for this procurement program.

- (1) Procurement of products and services noncompetitively up to \$25,000. See: 41 U.S.C. § 6101.
- (2) Authority to procure products and services between \$25,000 and \$100,000 using open market procedures, in the same manner as would be conducted under COCP Level 3. See: Guide, Vol. 14, § 325.20 (Competitive Small Purchase Procedures).
- (3) Commercial advance payment authority for emergency and transitional housing, child care, and job training related to Second Chance Act up to \$25,000. See: 28 U.S.C. § 604(g)(4)(C).
- (4) Authority to award a contract, purchase order, or blanket purchase agreement (BPA) order with administrative fees as a contract line item, only for the applicable project codes as specified in the Second Chance Act Procurement Manual.
- (5) Authority to procure products and services over \$100,000, only with use of the Second Chance Act Template for Products and Services above \$100,000; proper procedures must be followed in accordance with Volume 14 and the Second Chance Act Procurement Manual.

(c) Limitations of Delegations

COs must follow the Second Chance Act Procurement Manual when awarding contracts, BPAs, and purchase card orders for Second Chance Act products and services. Contracts in excess of \$100,000 must be awarded using PMD contract templates.

(d) Training Requirements

This COCP Level 2 authority may be exercised only after completing Small Purchase Procedures, Standard Competitive Contracting Procedures, Special Categories of Procurement, and Appropriations Law for the U.S. Courts (all are available online), and any specialized training programs offered by the responsible AO program office.

See also: § 140.25 (Level 2 Certification: Special Program Delegation).

REDLINE COMPARISON REFLECTING CHANGES

§ 140 Contracting Officers Certification Program

[. . .]

§ 140.20 Level 1 Certification: Purchase Card Program

[. . .]

§ 140.20.40 Training Requirements

To be eligible for appointment as a Level 1 CO, individuals must complete the online [Judiciary Purchase Card Program Training](#) ~~(Course 2)~~, and repeat the online course every two years.

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§ 140.25 Level 2 Certification: Special Program Delegation

[. . .]

§ 140.25.40 Training Requirements

To be eligible for appointment as a Level 2 CO, individuals must complete:

- the online ~~Judiciary Basic Procurement Seminar (Course 3)~~, [Standard Competitive Contracting Procedures](#),
- the online [Appropriations Law for the U.S. Courts](#) ~~(Course 4)~~, and

[. . .]

§ 140.30 Level 3 Certification: General Delegation

[. . .]

§ 140.30.50 Training Requirements

To be eligible for appointment as a Level 3 CO, individuals must complete both ~~the online courses~~ [Judiciary Basic Procurement Seminar \(Course 3\)](#), [Small Purchase Procedures](#), [Standard Competitive Contracting Procedures](#) and the Judiciary Procurement Workshop classroom training, as well as the online [Appropriations Law for the U.S. Courts](#) ~~(Course 4)~~ ~~course~~. [. . .]

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

§ 220 Terms and Conditions

[. . .]

§ 220.55 Contract Financing

[. . .]

§ 220.55.30 Delegation

- (a) Subject to the following limitations, the Director has delegated to chief judges and other judiciary officials identified at [§ 120.20.10\(b\) \(Delegation to Chief Judges and Other Judiciary Officials\)](#), the authority to use commercial advance payment, subject to the limitations of the bona fide needs rule, in the purchase of services which meet the following conditions:

- (1) the purchase is for:

[. . .]

- [emergency and transitional housing, child care, and job training related to Second Chance Act. See: Guide, Vol. 8L, Ch. 2 \(Second Chance Act Guidance\)](#).

[. . .]