

# ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WASHINGTON, D.C. 20544

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## GUIDE TO JUDICIARY POLICY

TRANSMITTAL 14-024 VOLUME/PART 14 CHAPTER(S) 1-6

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

**FROM:** Judge Robert J. Conrad, Jr.  
Director



**RE: PROCUREMENT**

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

[Chapter 1 – Overview](#)  
[Appendix 1B – Solicitation Provisions and Contract Clauses](#)  
[Appendix 1C – Matrix of Solicitation Provisions and Clauses](#)  
[Appendix 1F – COCP Level 3 – General Delegation](#)  
[Appendix 1K – Required COCP Training by Certification Level](#)  
[Appendix 1Z – Glossary of Procurement Terms](#)  
[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](#)

Significant changes were made as follows:

Chapter 1:

- Removed restriction prohibiting courts from conducting procurements on a best value basis (plus conforming changes in Appendix 1F);

## Guide Transmittal 14-024 – Procurement

- Consolidated Contracting Officers Certification Program (COCP) Levels 4 – 7, under Professional category to align the AO's contracting certification with the FAC-C Professional certification (plus conforming changes in Appendix 1K);
- Aligned the COCP 2-year education requirement with the Federal Acquisition Institute's (FAI) two-year common period, which begins May 1 and ends April 30 every two years; and
- Clarified that contracting officers must use the Uniform Contract Format whenever using Standard Competitive Contracting Procedures.

### Chapter 2:

- Clarified guidance on use "trial" or "demonstration" of products during market research; and
- Emphasized the importance of using Past Performance as an evaluation factor when appropriate.

### Chapter 3:

- Clearly identified the Judiciary's Small Purchase Threshold (\$100,000);
- Expanded use of Small Purchase Procedures (with conforming changes in Appendix 1F);
- Provided guidance for conducting procurements on a best value basis when using Small Purchase procedures; and
- Clarified that a quotation is not a legal offer.

### Minor updates were also made to:

- Chapters 4, 5, and 6, to reflect changes in Chapter 1 and 3;
- Appendices 1B and 1C, to reflect updated clause and provision prescriptions in Chapter 3;
- Certain appendices, shortening their names; and
- Glossary of Procurement Terms, designating it as "Appendix 1Z," and adding, clarifying, and updating entries.

The revision also reflects stylistic changes to improve readability. The significant changes are detailed in the Redline Comparison below.

Questions regarding this transmittal may be directed to the Acquisition Management Office of the AO's Department of Administrative Services, at 202-502-1330.

### REDLINE COMPARISON REFLECTING CHANGES

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

Appendices

[. . .]

Appx. 1C Matrix of Solicitation Provisions and Clauses ~~(Including Key)~~

Appx. 1D COCP Level 1 – Contracting Officers Certification Program ~~(Level 1: Purchase Card Program)~~

Appx. 1E COCP Level 2 – Contracting Officers Certification Program ~~(Level 2: Special Program Delegation)~~

Appx. 1F Contracting Officers Certification Program ~~(Level 3)~~ COCP Level 3 – General Delegation

Appx. 1K Required COCP Training by Certification Level ~~(Contracting Officers Certification Program)~~

Appx. 1Z Glossary of Procurement Terms

## REDLINE COMPARISON REFLECTING CHANGES

### § 110 Overview

[ . . ]

#### § 110.60 Uniform Contract Format

Contracting officers must use the Uniform Contract Format is required for open market (UCF) when issuing solicitations and awards in excess of \$100,000. This format using Standard Competitive Contracting Procedures. UCF use is optional for other types of solicitations and awards. See: Appx. 1A (Uniform Contract Format) Guide, Vol. 14, § 330 (Standard Competitive Contracting Procedures).

### § 120 Delegation of Procurement Authority

[ . . ]

#### § 120.20 Authorized Delegations

##### § 120.20.10 Director Delegations

###### (a) Delegation to the Procurement Executive

The Director has delegated unlimited judiciary procurement authority, within the applicable statutory requirements, to the Chief of the Procurement AO's Acquisition Management Division (PMD Office (AMO)), as the judiciary's Procurement Executive (PE). The AO's PMD AMO is a part an office within the Department of the Finance and Procurement Office (FPO)-Administrative Services (DAS). This delegation includes the responsibility for publishing and maintaining judiciary-wide procurement policies, manuals, procedures, etc., and conducting judiciary procurement program reviews. authority to:

- manage the judiciary's procurement program;
- publish and maintain judiciary-wide procurement policies, manuals, and procedures;
- conduct judiciary procurement program reviews; and
- ratify unauthorized commitments, when necessary.

###### (b) Delegation to Chief Judges and Certain Judiciary Officials

[ . . ]

(2) Such authority may be exercised to procure products and services within the provisions of the *Guide*, Procurement Manuals, and Procurement Bulletins. This authority includes the authority to ratify unauthorized commitments and may be redelegated consistent with this chapter of the *Guide*. **See also:** ;

- § 120.20.40 (Redelegation by Chief Judges and Other Judiciary Officials),
- § 140 (Contracting Officers Certification Program), and
- § 160 (Ratification of Unauthorized Commitments).

[ . . ]

## REDLINE COMPARISON REFLECTING CHANGES

### § 120.20.30 Procurement Executive

[. . .]

- (b) The PE, or ~~the~~ PE delegate ~~within~~ AMOPMD, may also provide one-time delegations of procurement authority to judiciary organization contracting officers when required for a specific situation not otherwise in their authority, and may take other actions as provided in ~~this chapter of the Guide, Vol. 14 (Procurement Manuals), procurement manuals, procurement bulletins, and Procurement Bulletins~~ AO internal policies. See also: § 140 (Contracting Officers Certification Program).

### § 120.20.40 Redelegation by Chief Judges and Other Judiciary Officials

Chief judges and other certain judiciary officials identified at § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials) are authorized to redelegate oversight and procurement authority, including the authority to ratify unauthorized commitments, to a Procurement Liaison Officer (PLO), in compliance with the limitations specified in the COCP, ~~with the PLO having authority to~~. PLOs may successively redelegate their procurement authority to contracting officers (COs), except for the authority to ratify unauthorized commitments. See: § 160 (Ratification of Unauthorized Commitments).

### § 120.20.50 Procurement Authority under Exceptional Circumstances

A judiciary organization may encounter a procurement that ~~is outside any aspect of~~ exceeds its delegated authority and certification level (described in § 140 (Contracting Officers Certification Program)). [. . .]

- (a) If the procurement ~~is outside~~ exceeds the judiciary organization's delegated procurement authority, the organization may request a one-time delegation of authority ~~may be requested~~ from ~~PMD~~ the PE to conduct and complete the procurement ~~by submitting a request to AMO's Acquisition Training and Certification Branch (ATCB)~~. [. . .]

[. . .]

### § 120.30 Types of Delegation

[. . .]

#### § 120.30.30 One-Time Delegation

Occasionally, a judiciary organization ~~there may be a~~ need to exceed the general or special delegations, or ~~to~~ waive a specific limitation ~~and/or~~ condition. The PLO must ~~forward~~ submit any such requests ~~in writing to PMD. Requests~~ the AMO's ATCB. AMO will be considered consider requests based on the situation and the best interest of the judiciary on a case-by-case basis.

### § 120.40 Special Program Delegation

[. . .]

#### § 120.40.60 FPDO Case-Related Expert or Consultant Services

[. . .]

- (b) Limitations of Delegation

[. . .] Contracts ~~in excess of~~ for case-related expert or consultant services over \$100,000 must be submitted for approval to ~~PMD~~ AMO's ATCB, in coordination with AO's Defender Services Office ~~coordination, for approval~~.

[. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 120.40.65 Second Chance Act Products and Services

(a) Authority

[. . .]

(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)~~); 34 U.S.C. § 60501(a)(4). [. . .]

[. . .]

(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~~ for Second Chance Act products and services over \$100,000 must be awarded using PMDAMO contract templates.

[. . .]

### § 140 Contracting Officers Certification Program

#### § 140.10 Overview

#### § 140.10.10 Purpose

The Contracting Officers Certification Program:

[. . .]

(b) specifies ~~seven~~the levels of contracting officer authority that may be delegated to staff within the AO and judiciary organizations ~~as well as within the PMD staff~~, including authority for special programs. See: [§ 120.40 \(Special Program Delegation\)](#).

[. . .]

### § 140.15 Certification Level Overview

#### § 140.15.10 Certification Levels

The COCP defines ~~seven~~three levels of contracting officer authority. ~~Within each and a professional level, there are certification. Each level has~~ unique training requirements.

#### § 140.15.15 Certification Levels *[table]*

Certification Level	Who may be appointed	Who may delegate the authority
<del>4</del>	<del>{Reserved}</del>	<del>{Reserved}</del>
<del>5</del> <u>Professional</u>	Career 1102 procurement personnel (AO)	PE
<del>6</del>	<del>Career 1102 procurement personnel (AO)</del>	<del>PE</del>
<del>7</del>	<del>Career 1102 procurement personnel (AO)</del>	<del>PE</del>

## REDLINE COMPARISON REFLECTING CHANGES

### § 140.30 Level 3 Certification: General Delegation

[. . .]

#### § 140.30.30 Level 3 Delegation

A delegation of Level 3 authority includes:

[. . .]

- (b) Competitive best value and competitive lowest-price, technically acceptable open market procurements conducted according to the procedures required for small purchases up to \$100,000.
- (c) Competitive best value and competitive lowest-price, technically acceptable orders placed under GSA federal supply schedules up to the specified maximum order threshold, if any, of the schedule contract.
- [. . .]
- (h) Interagency agreements (IAs) and memoranda of understanding (MOUs) for procurements up to \$100,000 when the judiciary is the receiving agency. [. . .] If the proposed IA or MOU is above this delegation authority or if the judiciary is the providing agency, the IA or MOU must be referred to PMD-AMO's ATCB. Applicability of a statutory authority other than the Economy Act must be validated by ~~the PMD-AMO~~. See also: [Guide, Vol. 14, Ch. 5 \(Special Categories of Procurements\)](#).

#### § 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;~~
  - procurements over \$10,000 (\$25,000 for training products or services) awarded without competition, or without 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).

#### ~~§ 140.35 Level 4 Certification: [Reserved]~~

#### ~~§ 140.40 [Reserved] Level 5 Certification: General Delegation~~ *[entire section deleted]*

#### ~~§ 140.45 [Reserved] Level 6 Certification: General Delegation~~ *[entire section deleted]*

### § 140.50 Professional Level ~~7~~ Certification: General Delegation

#### § 140.50.10 Scope

~~This level~~ COCP Professional Level certification is specific to career procurement personnel ~~within PMD~~ in the 1102 professional job series within AMO.

## REDLINE COMPARISON REFLECTING CHANGES

### § 140.50.20 Authority and Delegation

A delegation of Professional Level ~~7~~ authority confers ~~unlimited full~~ procurement authority within the limits stated in the employee's contracting officer's warrant, subject to the limitations, policies, and procedures ~~as~~ provided in the following:

- Guide, Vol. 14 (Procurement);
- Judiciary Purchase Card Program Manual;
- applicable Procurement Bulletins;
- AO internal policies and procedures.

### § 140.50.40 Education~~and~~, Training, and Certification Requirements

- (a) To be eligible for appointment as a Professional Level ~~7~~ CO, ~~individuals~~an individual must:
- (1) complete ~~the~~all prescribed training and fulfill the experience requirement necessary to qualify for ~~at the~~ FAC-C Professional ~~(see: -), and certification;~~
  - (2) hold a valid FAC-C Professional certification issued by the Federal Acquisition Institute (FAI); and
  - (3) complete the additional mandatory judiciary training, as shown indicated in Appx. 1K (Required Training by Certification Level (Contracting Officers Certification Program)). Appx. 1K (Required COCP Training by Certification Level).
- (b) Individuals appointed as Professional Level ~~7~~ COs must complete the FAC~~--~~C Professional continuing education training requirements every two years.

### § 140.55 Training

#### § 140.55.10 Importance of Training

- (a) In most judiciary organizations, procurement ~~activities are~~is one of several collateral duties held by employees. ~~These personnel have~~ with varying levels of procurement training and experience.
- (b) Appointment as a contracting officer, and the delegation of procurement authority the appointment provides, is contingent on completion of prescribed training. Yet, the to keep up with the significant and increasing complexities involved in procurement are significant and increase regularly. Thus, procurement personnel, contracting officers should have seek, and be encouraged by management to take, as many training opportunities as possible to receive targeted training in a broad variety of procurement subject areas. Appointment as a contracting officer and the subsequent delegation of procurement authority is contingent upon completion of certain mandatory training, but personnel should be encouraged to seek training opportunities beyond what is mandatory prescribed.

## REDLINE COMPARISON REFLECTING CHANGES

### § 140.55.10 [cont'd]

- (c) The decision of how much additional training and the type of training to pursue should be informed by the type, complexity, and dollar-value of procurements typically conducted at the organization and should consider the organization's future procurement needs.

See: Appx. 1K (Required COCP Training by Certification Level-(Contracting Officers Certification Program)).

### § 140.55.20 Training Availability

[. . .]

- (b) Professional Levels 5 Through 7

Training for Professional Level certification is based on training requirements for COCP Levels 5 issued by the Federal Acquisition Institute (FAI) as implemented through 7 are based upon the Federal Acquisition Certification in Contracting (FAC-C) Professional program as implemented by the . Courses. Required training courses are available from through FAI and using the Cornerstone OnDemand (CSOD) web-based platform, and through various commercial and educational organizations.

- (c) Funding for Mandatory Required Training

The AO will not provide funding to judiciary organizations for any training required for contracting officer appointment certification.

- (d) Advice Regarding Course Selections

If requested, PMD staff If requested, the AMO's ATCB will provide guidance and advice as to the adequacy of specific course selections before the individual attends training.

### § 140.55.25 "Expired" Training

- (a) Level 1-3 COCP Training

(1) Judiciary personnel pursuing COCP Level 1-3 certification should be diligent in completing all prescribed training necessary to apply for or request certification.

(2) Generally, courses completed more than two years before COCP certification is requested are deemed "expired" and may not be used to meet the prescribed training requirement to obtain a new certification, except as provided in § 140.55.30(c) (Credit for "Expired" Training).

- (b) Professional Level COCP Training

The "expiration" of training for AO personnel pursuing Professional Level certification follows FAI certification guidelines.

## REDLINE COMPARISON REFLECTING CHANGES

### § 140.55.30 Credit for Alternative Training~~Alternatives~~

(a) Relevant Previous Experience~~Credit for Relevant Experience~~

The PE ~~has the discretion to may~~ grant ~~exceptions to the required courses listed for credit for a judiciary employee's relevant experience and authorize its use to substitute training requirements for COCP certification at~~ the various ~~certification levels on a case-by-case basis for relevant previous experience.~~ Requests must include a written description of ~~any relevant duties and/or the~~ experience that ~~are~~is proposed as equivalents or substitutes for ~~formal~~required training.

**Example:** ~~The~~A PLO may request that the PE confirm the appointment of an individual who is or has been a career CO, but who has not ~~taken~~completed all ~~of~~ the courses listed as requirements for the proposed level of appointment.

(b) Credit for ~~the Same or Similar Classes~~Substitute Courses

(1) ~~The PE may authorize substitution of a Credit for previously completing the same classes or similar ones is considered by the PE on a case-by-case basis, except for course meeting the overall training objectives of a required course. Generally, the PE will not grant requests for substitution of~~ the following unique judiciary courses:

- ~~Judiciary Purchase Card Program Training (online training);~~  
[ . . ]

### § 140.60 Continuing Education

#### § 140.60.10 Required Continuing Education

As an ~~ongoing~~ condition of maintaining a COCP certification, COs appointed to Level 3 certification or higher must complete a specified ~~number~~amount of ~~hours of~~ continuing education ~~every two years. The following table shows the amount of continuing education required within a two-year common education (CE) period. The judiciary's CE period is the same as FAI's common continuous learning period, which begins on May 1 and ends on April 30 every two years.~~

#### § 140.60.10 Continuing Education Requirements

Certification Level	Required Hours Every <u>CE Period</u> <del>Two Years</del>
[ . . ]	[ . . ]
<u>Professional</u> <del>7</del>	<u>100</u> <del>80</del>

#### § 140.60.20 Failure to Meet Continuing Education Requirements

If a CO does not complete the ~~biennial~~continuing education requirement within the CE period, the PLO must cancel the CO's appointment. PLOs should contact the AMO's ATCB to discuss available options for reinstating a cancelled certification. **See also:** § 140.55.30 (Credit for Alternative Training)-.

## REDLINE COMPARISON REFLECTING CHANGES

### § 140.60.50 Certifying Continuing Education ~~Certification Process~~Information [table]

Stage	Description
1	The CO completes all or part of the <del>biennial</del> continuing education training requirement <u>during the CE period</u> .
4	The PLO ensures that the training information including relevant dates is entered <del>intecorrectly in</del> the InfoWeb Procurement <u>&amp; Finance</u> Delegation <del>Ss</del> system.

### § 150 Procurement Integrity and Ethics

[. . .]

#### § 150.20 Procurement Integrity Act

[. . .]

#### § 150.20.40 Questions About Procurement Integrity Policies

The Director has designated the AO's General Counsel as the ethics official for the Act. ~~Anyone with questions~~Questions concerning procurement integrity ~~policy~~ should be directed to ~~PMD or the AO's OGC.~~ ~~In instances not clearly defined or not covered by the policies in this section, judiciary employees are to seek guidance from the OGC.~~AMO, who may consult with OGC. Judiciary employees or former employees may request a written advisory opinion from ~~the~~ OGC.

### § 150.30 Conflicts of Interest

[. . .]

#### § 150.30.20 ~~Identification of~~ Potential Conflicts of Interest

[. . .]

**Note:** When a potential conflict is foreseen, the CO must request assistance from ~~the PMD~~AMO, who ~~will may~~ consult OGC, ~~to determine how for advice on options~~ to avoid or mitigate the conflict.

#### § 150.30.30 Disqualified and Rejected Offer

Occasionally, ~~a situation occurs where~~ it does not become apparent until offers are received that participation by ~~a particular an~~ offeror may lead to a conflict of interest and/or unfair competitive advantage. In ~~that such a~~ case, if the conflict cannot be avoided or mitigated, the ~~CO may disqualify the offeror may be disqualified and reject its offer rejected.~~ Before disqualifying an offeror or rejecting an offer based on a conflict of interest, the CO must consult with AMO, who may consult with OGC. Any ~~such~~ determination ~~must be reduced to a disqualify an offeror or reject its offer based on a conflict of interest must be supported by the CO's written description and analysis of the circumstances and a description of the proposed course of action.~~ Before taking any action, consultation is required with PMD, who will consult with OGC.

### § 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 the CO must submit a detailed justification must be provided to PMD, AMO before award for consideration of an approved by the PE. The PE will make a written exception, before award determination to approve or deny the request.~~

## REDLINE COMPARISON REFLECTING CHANGES

### § 150.50 Gratuities or Gifts

[ . . . ]

#### § 150.50.10 Prohibition on Procurement Official ProhibitionsOfficials

Notwithstanding tThe exception for gifts to a judicial officer or judiciary employee with an aggregate market value of \$50 or less per occasion and \$100 or less per calendar year stated in ~~the~~ Guide, Vol. 2C, § 620.35(b)(8) (Acceptance of Gifts by a Judicial Officer or Employee: Exceptions), ~~does not apply to a judiciary employee who is “personally and substantially” involved in a judiciary procurement if the donor has sought or is seeking to do business with the court or other entity served by the judiciary employee.~~ contracting officers, acquisition managers, and other employees who are personally and substantially involved in the award of a contract, including program officials serving as technical evaluators or source selection officials, may not accept any gift, irrespective of the dollar amount, from any person, vendor, or organization competing for the contract, during the pendency of the action (i.e., before contract award).

### § 160 Ratification of Unauthorized Commitments

#### § 160.05 Definitions *[table]*

##### Ratification

The act of approving an unauthorized commitment by an official who has the delegated procurement authority to do so. ~~The approval of an unauthorized commitment or act results in the act being given effect as if originally authorized. It is not a desirable method of procurement, because it is not consistent with the judiciary’s policies and procedures, and may result in punitive action against the person(s) who committed the unauthorized act. The only judiciary employees who may bind the judiciary are contracting officers, including purchase cardholders, acting within the limits of their delegated authority.~~

#### § 160.15 Authority to Ratify Unauthorized Commitments

~~An unauthorized commitment may be ratified by~~Only the CO ~~only after the appropriate~~following judiciary official ~~(i.e., officials are authorized to ratify unauthorized commitments:~~

[ . . . ]

(c) chief judges~~or and~~ other judiciary officials identified at § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials), or PLO if delegated)~~has authorized), and~~

(d) PLOs, when the PLO’s delegation of procurement authority specifically includes the ratification. The authority to ratify unauthorized commitments. (Note: A PLO may not be the authorizing official for anya ratification action where the PLO is also the CO onfor the action or the official responsible for committing the unauthorized commitment.)

#### § 160.25 Criteria for Approving Ratification Requests

An unauthorized commitment may be ratified if **all** of the following criteria are met:

[ . . . ]

(b) Either:

- (1) The CO had the appropriate delegated procurement authority to enter into a contractual commitment at the time the unauthorized commitment was made and still has the authority to do so. ~~Or, for unauthorized actions exceeding the CO’s delegated procurement authority, PMD could have granted authority to enter into such a contractual commitment. The PLO must contact PMD for assistance in making this determination; or~~

## REDLINE COMPARISON REFLECTING CHANGES

### § 160.25 [cont'd]

- (2) For unauthorized actions stemming from a CO exceeding his or her delegated procurement authority, AMO could have granted additional procurement authority to enter into such a contractual commitment. (Note: The PLO must contact AMO for assistance in making this determination.):

[. . .]

### § 160.30 Who May ~~Authorize Ratification~~Ratify Unauthorized Commitments

~~If the procurement is found to have been appropriate according to § 160.25 (Criteria for Approving Ratification Requests), above, then the~~The authorizing official, ~~as identified in the following table below, may authorize the~~ratify an unauthorized commitment after determining that all criteria for approving ratification requests have been met. **See:** § 160.25, above.

### § 160.30 Who May ~~Authorize Ratification~~Ratify Unauthorized Commitments

IF the action...	THEN...
(a) is within the authority delegated at <u>§ 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials)</u>	the authorizing official is the chief judge or other judiciary official identified at <u>§ 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials)</u> , or the PLO (if delegated), <del>who will provide a one-time delegation to the CO to ratify the unauthorized action or assign it to a CO with the appropriate authority.</del>
(b) is not within the authority delegated at <u>§ 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials)</u>	the authorizing official is the PE. The <u>assigned</u> CO <u>will must</u> submit to the PE <del>the</del> <u>all pertinent</u> ratification documentation, <del>including and a properly completed Form AO 371 signed approval of the request</del> by the chief judge or other judiciary official identified at <u>§ 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials)</u> , or <u>by</u> the PLO (if delegated). The PE will review the documents <del>and, if to determine in writing whether ratification is</del> appropriate, <del>provide a one-time delegation of authority for the CO to ratify the action.</del>

~~After obtaining the one-time delegation of authority and the signed authorization, the CO may ratify the unauthorized action according to § 160.35 (Ratification Actions by CO), below.~~

### § 160.35 ~~Formalization of Ratified Actions~~Ratification Actions by CO

After receiving an approved and signed Form AO 371 confirming the authorizing official's ratification of an unauthorized commitment, the CO must formalize the ratified procurement action by performing the following actions: If the ratification is ultimately approved in writing, the CO must:

[. . .]

### § 160.40 Non-Ratifiable Unauthorized Commitments

- (a) Not all actions can be ratified, such as those that are prohibited by law or otherwise improper. Examples include:

- actions that would create a violation of the Anti-Deficiency Act (e.g., ratifying an unauthorized commitment involving an unrestricted or open-ended indemnification clause or term in a vendor's agreement.)

[. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 160.40 [cont'd]

- (b) ~~If this occurs, the COs must contact the PE first~~ AMO for assistance, ~~then the PE will when encountering non-ratifiable unauthorized commitments. AMO may advise the CO or~~ consult with OGC.

### § 170 Release of Information

[. . .]

#### § 170.30 Internal Documents

- (a) Internal documents related to judiciary procurements such as memos, correspondence, source selection plans, and offer evaluations, including individual score sheets, deliberations of technical and source selection officials, may be deemed privileged interagency or intra-agency documents that ~~will not be disclosed.~~
- (b) These documents may be released only after ~~the CO consults with the appropriate judiciary personnel (e.g., PMD, OGC) and only if disclosure would not inhibit communication or otherwise compromise the procurement process with regard to the subject of the request, as well as other ongoing procurements may not be released~~ consultation with appropriate judiciary personnel (e.g., AMO, OGC) and only if disclosure would not inhibit communication or otherwise compromise the integrity of the procurement process regarding the subject of the request, as well as other ongoing or future procurements.

#### § 170.40 Obtaining Guidance

Since requests for procurement-related documents, ~~most particularly pricing information,~~ often involve complex issues requiring knowledge of court rulings, statutes, and other issues, COs are ~~cautioned~~ advised to first seek ~~the guidance of PMD from~~ AMO, who ~~will~~ may consult with OGC, before ~~disclosing~~ releasing documents that could be considered confidential or trade secret information under FOIA or the Trade Secrets Act, or involve other questions about release of information.

*[Significant changes in Appendix 1B (Solicitation Provisions and Contract Clauses) follow:]*

#### Provision B-1, Solicitation Provisions Incorporated by Reference

[. . .]

##### Solicitation Provisions Incorporated by Reference (~~SEP 2010~~ MAR 2025)

[. . .] Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.uscourts.gov/procurement.aspx>.

[. . .]

#### Clause B-5, Clauses Incorporated by Reference

[. . .]

##### Clauses Incorporated by Reference (~~SEP 2010~~ MAR 2025)

[. . .] Also, the full text of a clause may be accessed electronically at this address: <http://www.uscourts.gov/procurement.aspx>.

[. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### Clause 2-57, Protecting, Reporting, and Responding to Incidents Involving Sensitive Information

Include the following clause as prescribed in [§ 220.25.80\(c\) \(Service-Related Provisions and Clauses\)](#) and [§ 330.10.30\(a\) \(Provisions and Clauses\)](#).

[. . .]

### Clause 2-135, Acquisition of EPEAT®-Registered Personal Computer Products

[. . .]

#### Acquisition of EPEAT®-Registered Personal Computer Products (MAR 201925)

[. . .]

- (c) For information on EPEAT® standard, **see:**  
[www.epa.gov/epeat](http://www.epa.gov/epeat)[www.epa.gov/greenerproducts/identifying-greener-electronics](http://www.epa.gov/greenerproducts/identifying-greener-electronics).

[. . .]

[Significant changes in Appendix 1C (Matrix of Solicitation Provisions and Clauses) follow:]

[Citations in the table were updated.]

[Significant changes in Appendix 1F (COCP Level 3 – General Delegation) follow:]

### Appx. 1F: ~~Contracting Officers' Certification Program~~ – COCP Level 3 – General Delegation

#### Contracting Officers' Certification Program – Level 3 [table]

[. . .]

#### Types of Actions

Competitive <del>s</del> Small <del>p</del> Purchase <del>o</del> Open <del>m</del> Market <del>p</del> Purchase <del>o</del> Orders	<u>Best value and</u> <del>Competitive</del> lowest price technically acceptable <u>competitive</u> procurements up to \$100,000: delegated
<u>Use of standard competitive procedures</u>	<u>Requires PE approval</u>
<u>Use of small purchase procedures above small purchase threshold</u>	<u>Requires PE approval when using the procedure at Guide, Vol. 14, § 325.10(b)</u>

[Significant changes in Appendix 1K (Required COCP Training by Certification Level) follow:]

### Appx. 1K: Required COCP Training by Certification Level (~~Contracting Officers Certification Program~~)

(Note: ~~Certification Level 4 is reserved.~~ [. . .])

- (a) To obtain FAC-C (Professional) certification, all career procurement personnel in the 1102 job series (COCP ~~levels 5-7~~Professional Level), must:  
 [. . .]
- (b) Career procurement personnel in the 1102 job series (COCP ~~levels 5-7~~Professional Level) who were certified at the legacy Federal Acquisition Certification in Contracting (FAC-C) Levels I, II, or III, as of Feb. 1, 2023, were automatically certified as FAC-C (Professional) and are not required to complete the four "CON" training courses: (e.g., CON 1100).

## REDLINE COMPARISON REFLECTING CHANGES

*[updated chart removed Levels 5, 6, and 7 and added new column for Professional certification level]*

X = Mandatory (**Note:** For AMO staff, mandatory training required only for COCP Levels 5, 6 and 7 the Professional Level certification may be obtained from FAI through the Cornerstone OnDemand web-based platform or through various commercial and educational organizations. Registering for paid training through commercial and educational organizations and is subject to the Procurement Executive's requires prior AMO chief approval.)

*[Significant changes in Appendix 1Z (Glossary of Procurement Terms) follow:]*

### **Appx. 1Z: Glossary of Procurement Terms**

[. . .]

**Acquisition – See:** Procurement. ~~The term acquisition generally only refers to contracts. Procurement is a more comprehensive term that involves other contractual instruments such as purchase orders, delivery or task orders, contracts, etc. Therefore, the judiciary uses the term~~Generally, the terms “acquisition” and “procurement” may be used interchangeably. However, when the term “acquisition” is used to refer to the entire procurement lifecycle, including the activities below, “procurement” only refers to the process of conducting a procurement.

- Defining agency requirements;
- Budgeting and planning for the procurement of those requirements,
- Maintaining and operating what was procured, and
- Final disposal, disposition, or retirement of what was procured.

**Acquisition Management Office (AMO)** – The office within the Administrative Office of the U.S. Courts’ (AO) Department of Administrative Services (DAS) responsible for providing procurement and acquisition management support for the AO and judiciary organizations nationwide and for executing the judiciary’s acquisition and procurement program. The chief of AMO serves as the Judiciary Procurement Executive (PE).

**AMO – See:** Acquisition Management Office

**Antid-Deficiency Act** – Refers to 31 U.S.C. § 1341, 31 U.S.C. § 1342, and 31 U.S.C. § 1517. The Act prohibits federal employees from obligating or expending federal funds in advance or in excess of an appropriation, and from accepting voluntary services. Federal employees who violate provisions of the Antideficiency Act are subject to sanctions under 31 U.S.C. § 1349(a) and 31 U.S.C. § 1350. Requires that no officer or employee of the government may create or authorize an obligation in excess of the funds available, or in advance of appropriations unless otherwise authorized by law.

**Basic Terms and Conditions – See:** Contract Clause.

**Commercial Item** – [. . .] Commercial Item also includes products (commercial products) and services (commercial services) of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions [. . .].

**Judiciary’s Small Purchase Threshold** – ~~A limitation specifying that open market purchases must not exceed \$100,000. See:~~ Guide, Vol. 14, § 325.10325.05.

**PMD – See:** Procurement Management Division (PMD). *[deleted]*

## REDLINE COMPARISON REFLECTING CHANGES

**Procurement Executive, ~~PMD~~ (PE)** – The ~~individual appointed, who is responsible for management~~ judiciary official delegated the authority to manage the direction of the judiciary's comprehensive procurement ~~system~~program, including the development, maintenance, and implementation of the judiciary's unique judiciary-procurement policies and procedures; Chief of the ProcurementAcquisition Management Division (PMDOffice (AMO)).

**~~Procurement Management Division (PMD)~~ [deleted]**

**Ratification** – The act of approving an unauthorized commitment by an official who has the delegated procurement authority to do so. ~~The approval of an unauthorized commitment or act results in the act being given effect as if originally authorized. It is not a desirable method of procurement, because it is not consistent with the judiciary's policies and procedures, and may result in punitive action against the person(s) who committed the unauthorized act.~~

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

### § 210 Policy

[. . .]

### § 210.20 Roles and Responsibilities

- (a) InitiatingPlanning and planninginitiating procurement actions require a team effort. [. . .]
- (b) Purchasing Office
  - (1) The purchasing office is usually the office staffed by contracting officers (COs) who are responsible for the management and integrity of the procurement process. The purchasing office is the office in which the organization's procurement function resides.
  - ~~(2) For judiciary organizations, excluding the~~In the Administrative Office of the U.S. Courts (AO), the purchasing office is the ~~office where the procuring function resides.~~
  - ~~(2) In the AO, the purchasing office is the AO's~~ Procurement Management Division (PMD) of the Acquisition Management Office (AMO).
- (c) Requesting Office
  - (1) The requesting office is the organizational unit that initiates a ~~purchase~~procurement action by identifying and defining a ~~specific need, such as a judiciary requirement.~~
  - ~~(2) Although an~~ organization's staff (e.g., IT staff, chambers staff ~~or facility staff).~~
  - ~~(2) Although other judiciary organizations~~ plays an important role in the procurement process, overall responsibility for ~~by identifying and defining requirements, program office personnel in the contracting aspects within the procurement process lies with the contracting officer (CO).~~
  - ~~(3) However, the planning for major purchases is the responsibility of~~AO, and the court unit executive or equivalent in judiciary organizations outside the AO, are responsible for planning major purchases or procurements.

## REDLINE COMPARISON REFLECTING CHANGES

### § 210.40 Purchasing Office Responsibilities

The purchasing office will help the requesting office prepare the requirements packages, as needed. COs are responsible for the management and integrity of the procurement process and:  
[. . .]

### § 210.60 Market Research

[. . .]

#### § 210.60.20 Market Research Methods

[. . .]

- (b) Market research ~~generally does not~~may include the temporary “trial” or “demonstration” use of equipment~~products delivered or products, only if these are not used in a production environment or to produce work that is of use and used within~~value to the judiciary organization’s facilities. Only if it can be definitely determined that, as doing so may:
- result in unauthorized commitments,
  - subject the eventual purchase will not exceed the applicable competition threshold—\$10,000judiciary to claims for open market purchases (\$25,000 for training products); \$10,000 for GSA schedule purchases—may equipment or products be used on a payment, and
  - in some cases, lead to violations of the voluntary services provision of the Antideficiency Act.
- (c) Before accepting a temporary “trial” basis in this manneror “demonstration” from a vendor, judiciary personnel should contact AMO to determine whether a special agreement is needed to protect the judiciary from unintended liability, claims, or violations.
- (ed) When a product demonstration is ~~required~~as part of the a solicitation’s evaluation process ~~of a solicitation~~, the ~~solicitation~~procurement process must ~~require that~~provide all competing offerors ~~provide a demonstration of the opportunity to demonstrate~~ their product—, unless they are eliminated from consideration consistent with the solicitation’s requirements before the demonstration phase.
- (e) The solicitation alsojudiciary’s requirement for a product demonstration may not ~~impose undue costs on~~cause offerors to incur undue costs to provide demonstrations ~~within~~ the judiciary organization’s facilities versus providing the demonstration at the offeror’s facilities.  
[. . .]
- (df) ~~Any solicitation~~Judiciary organizations requiring product demonstrations as part of ~~the a~~procurement’s evaluation process must ~~be approved by PMD~~consult with AMO.

### § 210.70 Source Selection Plans

#### § 210.70.10 General

The CO ~~will~~must develop a source selection plan for ~~each~~ competitive ~~procurement that is:~~

- (a) ~~procurements~~ above the judiciary’s small purchase threshold (**see:** Guide, Vol. 14, § 325.10 (Applicability)) or

## REDLINE COMPARISON REFLECTING CHANGES

### § 210.70.10 [cont'd]

- (b) ~~Guide, Vol. 14, § 325.05 (Judiciary's Small Purchase Threshold)). However, the use of a source selection plan is optional for procurements below the judiciary's small purchase threshold when the CO determines a award decision will be based on best value solicitation is appropriate.~~

### § 210.70.20 Plan Requirements

~~The CO will develop the~~ When using a source selection plan, the CO must develop it in collaboration with the evaluation panel, requesting office, and other advisors, as needed.  
[. . .]

### § 210.70.40 Evaluation Panels

[. . .]

- (b) Evaluation panel responsibilities include the following:  
[. . .]  
(3) present a written report of its findings to the CO or Source Selection Authority. ~~The report will contain, including~~ narrative statements discussing the ~~major strengths and weaknesses~~ relative merits of the various quotes or offers ~~as compared to~~ consistent with the evaluation factors.  
[. . .]

### § 210.70.50 Evaluation Factors and Sub-Factors

[. . .]

- (a) Evaluation factors and sub-factors must be consistent with the objectives of the purchase. Cost or price related factors or sub-factors ~~and past performance ratings~~ are always evaluated, even if their relative weight (i.e., importance) is low relative to technical factors.
- (b) Past performance should be an important element of every evaluation and contract award for products and services. Contracting officers should consider past performance data from a wide variety of sources both inside and outside the judiciary.

[. . .]

### § 220 Terms and Conditions

[. . .]

### § 220.50 Funding Contract Awards

[. . .]

### § 220.50.20 Contract Funding Requirements

[. . .]

- (a) The recommended method for funding Firm-~~f~~Fixed-~~P~~price contracts ~~are generally required~~ is to be funded them fully funded, ~~which at the time of award. This~~ means obligating sufficient funds to the contract to cover the entire contract price, even if the contract is awarded during a ~~period of a~~ continuing resolution. [. . .]
- ~~(b)(1) A Firm-fixed-price Fixed-Price contracts for severable services may be incrementally funded only if the contract (excluding any options) or any exercised option is:~~

## REDLINE COMPARISON REFLECTING CHANGES

### § 220.50.20 [cont'd]

- ~~(A) For severable services;~~
- ~~(B) For a period of one year performance is 12 months or less;~~
- ~~(1) (C) When incrementally funding a firm-fixed-price contract for severable services, each funding increment must obligate current year funds sufficient to fully pay for complete portions of the service that provide value the judiciary.~~
- ~~(2) Incrementally funded using funds available (unexpired) as of the date the funds are obligated; and~~
- ~~(D) Approved by PMD for a one-time delegation of procurement authority.~~
- ~~(2) An incrementally funded fixed-price contract Firm-Fixed-Price contracts should be fully funded as soon as funds are become available.~~
- ~~(bc)~~ Contracts for non-severable services must be fully funded at the time of award, ~~which. This means:~~
  - ~~(1) obligating sufficient funds to a Firm-Fixed-Price contract to cover the entire contract price, and~~
  - ~~(2) obligating sufficient funds based upon the established cost to Time-and-Materials, Labor-Hour, and Cost-Reimbursement contracts to cover the contract's ceiling in a cost reimbursement or labor-hour contract. The proper fiscal year's funds for an increase to the cost ceiling for these types of contracts depends on the reason for the increase price or not-to-exceed (NTE) amount.~~
- ~~(ed)~~ Contracts for severable services awarded on a cost-reimbursement, labor-hour, or time-and-materials basis, ~~including any options of the contracts, and contracts that cross fiscal years,~~ may be funded ~~for~~ up to twelve (12) months at a time, and the funding may cross the fiscal year (see: [§ 220.50.60\(b\) \(Contracts Crossing Fiscal Years\)](#)). Alternatively, ~~the award may be funded to cover only what is estimated to be required for performance from award through September 30<sup>th</sup> from the current fiscal year's funds. The contract would then be modified to obligate funds of the next fiscal year to cover the remainder of the twelve month performance period, assuming there is still a bona fide need for the services. Funding for the award or for the exercise of any option period may not exceed the amount estimated for a twelve month period of performance.~~ such contracts may be funded with:
  - ~~(d(1) current year funds to cover only the estimated amount required for performance from award through September 30<sup>th</sup>, and~~
  - ~~(2) the next fiscal year's funds to cover subsequent funding actions for the remainder of the 12-month performance period.~~

[. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 220.55 Contract Financing

[ . . ]

### § 220.55.50 Limitations

[ . . ]

- (b) ~~When authorized~~Performance is deemed to commence on the first day of the contract period of performance. While actual performance of services under maintenance support service agreements for photocopy equipment, IT equipment and/or software might not occur on the first day of the performance period, for use commercial advance payment purposes, performance is deemed to commence on the first day of the contract period of performance. Similarly, when the award is made in-, the contracting officer may authorize payment of the advance of the first day of the contract period of performance (e.g., contracts awarded in August or September, with performance starting in October), performance commences on the first day of the contract period of performance, not as early as the effective date of awardthe contract, even if performance may begin later, except with regard tofor commercial training, where performance is deemed to ~~commence~~begin on the date of the award.

[ . . ]

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

### § 310 Procurement Sources

[ . . ]

### § 310.40 Judiciary-Wide Contracts and Blanket Purchase Agreements (BPAs)

[ . . ]

### § 310.40.30 Contract and BPA Requirements

[ . . ]

- (b) If the CO is required to solicit competitive quotes from more than one contractor before placing an order, the CO may use either technically acceptable/lowest price or best value as the basis of award. ~~**Note:** Judiciary organizations, excluding the AO, are not delegated authority to conduct best value procurements and must obtain a one-time delegation from PMD before issuance of the solicitation and before award of the later contract.~~

### § 310.60 Other Federal Agency Contracts

[ . . ]

### § 310.60.30 Ordering Procedures

[ . . ]

- (c) [ . . ]  
(2) ~~Judiciary organizations, excluding the AO, are not delegated authority to conduct best value procurements and must obtain a one time delegation from PMD before issuance of the solicitation and before award of the later contract.~~

[ . . ]

### § 325 Small Purchase Procedures

- (a) This section provides policies and procedures for the acquisition of supplies and services, including construction, research and development, commercial products, and commercial services, with an aggregate amount, including options, up to the judiciary's small purchase threshold.

## REDLINE COMPARISON REFLECTING CHANGES

### § 325 [cont'd]

- (b) These small purchase procedures vest contracting officers with additional procedural discretion and flexibility, so that commercial acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the judiciary and industry.
- (c) COs should use these small purchase procedures as much as possible for purchases of supplies or services up to the judiciary's small purchase threshold.

### § 325.05 Judiciary's Small Purchase Threshold

The judiciary's small purchase threshold is \$100,000.

### § 325.10 Applicability

- (a) The small purchase procedures are for use in making this section apply when conducting open market fixed-price purchases up to \$100,000, as well as Not To Exceed purchase orders under \$100,000 for services such as equipment repairs, which are customarily priced on the basis of parts plus labor. This dollar limitation is referred to as procurements whose value do not exceed the judiciary's small purchase threshold, inclusive of options.

**Note:** ~~This section does not apply to GSA FSS orders (see: § 310.50 (GSA Federal Supply Schedules)) or orders from other federal agency contracts (see: § 310.60 (Other Federal Agency Contracts)).~~

- (b) Contracting officers may also use any small purchase procedure in this section, subject to any specific dollar limitation applicable to the particular procedure, for the acquisition of supplies and services in amounts over the judiciary's small purchase threshold up to \$10 million, including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought and on market research, that offers will include only commercial items, such as commercial products or commercial services.
- (c) § 325.10.10-Limitations
  - (1) A procurement estimated to total more than the judiciary's small purchase threshold may not be split into two or more purchases to use small purchase procedures. ~~Not~~ may a known requirement for goods or services be split, parceled, divided, or purchased over a period of time, solely to avoid the dollar limitations for small purchase procedures.
  - (2) A known requirement for goods or services may not be split, parceled, divided, or purchased over a time period, solely to avoid the dollar limitations for small purchase procedures.
- (d) The small purchase procedures do not apply if:
  - (1) the CO can meet their requirement (see: § 310.10 (Sources of Supply)) using the following sources which have their own procurement procedures:

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.10 *[cont'd]*

- (A) Mandatory sources of supply that take precedence over this section (e.g., AbilityOne program);
  - (B) Certain non-mandatory sources of supply (e.g., other federal agency contracts (OFACs)) (**see:** § 310.60 (Other Federal Agency Contracts));
  - (C) Existing judiciary contracts (e.g., indefinite delivery/indefinite quantity contracts, BPAs); or
  - (D) GSA federal supply schedule contracts (**see:** § 310.50 (GSA Federal Supply Schedules)); or
- (2) purchases are made under the Judiciary Small Purchase Card Program when the purchase card will be used both as the method of contracting and the method of payment. (**See:** Guide, Vol. 14, § 140 (Contracting Officers Certification Program (COCF)) as it relates to purchase card authorized use. **See also:** Judiciary Purchase Card Program Manual.)

### § 325.20 Competitive Small Purchase Procedures

#### § 325.20.10 Competition Guidelines

[. . .]

- (d) ~~For any open market purchases over the judiciary's small purchase threshold (**see:** § 325.10 (Applicability)), use the standard competitive contracting procedures for formal contracts. **See:** § 330 (Standard Competitive Contracting Procedures).~~

### § 325.30 Soliciting Under Small Purchase Procedure

[. . .]

#### § 325.30.20 Written Solicitations

- (a) When using a written solicitation for a procurement using~~Under~~ small purchase procedures, a~~written solicitation is referred to as~~COs may use either a Request for Quotation (RFQ) or a~~Request for Proposal (RFP).~~ [. . .]

[. . .]

### § 325.35 Basis for Award

[. . .]

#### § 325.35.20 Technically Acceptable/Lowest Price

Quotes are evaluated based on price. Awards are made to the responsible quoter who submits the lowest priced quotation ~~or the quote~~ that meets the judiciary's stated minimum technical requirements ~~and is made by a responsible quoter.~~ [. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.35.30 Best Value

- (a) Quotes are evaluated based on factors other than price alone. [. . .]
- (b) Small purchases do not generally warrant evaluation based on best value; technically acceptable/lowest price is generally used for small purchases. **See:** § 325.35.20 (Technically Acceptable/Lowest Price). ~~Use of best value as an evaluation method is usually highly complex and will require lengthy or detailed submissions by the quoters. **See also:** § 330.40.30 (Best Value Awards) and § 330.40.40 (Selection Documentation).~~

**Note:** ~~Judiciary organizations, excluding the AO, are not delegated authority to conduct best value procurements and must obtain a one time delegation from PMD before issuance of the solicitation and before award of the later contract.~~

### § 325.40 Receipt and Evaluation of Quotations or Offers

[. . .]

#### § 325.40.30 Evaluation of Quotations or Offers

- (a) The contracting officer ~~Evaluation must be made~~ consider all quotations and offers, and evaluate them:
  - (1) impartially;
  - (2) inclusive of transportation charges from the supplier's shipping point to the delivery destination; and
  - (3) on the basis of price, established in the solicitation.
- (b) Evaluation procedures
  - (1) The contracting officer has broad discretion in fashioning suitable evaluation procedures. Although the standard competitive contracting procedures described in § 330 do not apply to small purchases, the contracting officer may decide to use one or more of the evaluation procedures in § 330.36 (Evaluation of Offers).
  - (2) If using price and other factors, the contracting officer should ensure that quotations or offers can be evaluated efficiently and with minimal burden. Developing formal evaluation plans, establishing a competitive range, conducting discussions, and scoring quotations or offers are not required.
  - (3) Contracting officers may conduct comparative evaluations of offers. Evaluation of other factors, such as provided in past performance:
    - (A) does not require the RFQ. Regardless creation or existence of a formal data base; and
    - (B) may be based on one or more of the following:
      - (i) the contracting officer's knowledge of, and previous experience with, the supply or service being acquired;

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.40.30 [cont'd]

- (ii) customer surveys and past performance questionnaire replies;
  - (iii) the Contractor Performance Assessment Reporting System (CPARS), when judiciary employees have access to it; or
  - (iv) any other reasonable basis-of.
- (4) For acquisitions conducted using a method that permits electronic response to the solicitation, the contracting officer may:
  - (A) After preliminary consideration of all quotations or offers,
    - (i) identify, from all quotations or offers received, one that is suitable to the user (e.g., lowest priced brand name product); and
    - (ii) screen all lower priced quotations or offers based on readily apparent value indicators (e.g., past performance, warranty conditions, maintenance availability); or
  - (B) Where an evaluation is based only on price and past performance, make an award (based on whether the lowest priced of the quotations or offers with the highest past performance rating possible represents the best value, when compared to any lower priced quotation or lowest price/technically acceptable),offer.

### § 325.41 Award and Documentation

#### (a) Basis for award

Before making an award, the COcontracting officer must make-adetermine that the proposed price is fair and reasonable.

- (1) Whenever possible, base price reasonableness determination-and-on competitive quotations or offers.
- (2) If only one response is received, include a statement of price reasonableness in the contract file. The contracting officer may base the statement on:
  - (A) Market research;
  - (B) Comparison of the proposed price with prices found reasonable on previous purchases;
  - (C) Current price lists, catalogs, or advertisements;

(Note: Inclusion of a price in a price list, catalog, or advertisement does not alone establish fairness and reasonableness of the price.)

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.41 [cont'd]

- (D) Comparison with similar items in a related industry;
- (E) The contracting officer's personal knowledge of the item being purchased;
- (F) Comparison to an independent Government estimate; or
- (G) Any other reasonable basis.
- (3) Occasionally, an item can be obtained only from a supplier that quotes a minimum order price or quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantity required.
  - (A) If this happens, the contracting officer should explain the quotation or offer to the requiring organization and ask the organization to confirm or change its requirement.
  - (B) The contracting officer must include documentation in the file to support the final action taken.
- (b) File documentation and retention

Purchasing offices should retain quotations or offers and data supporting purchases (paper or electronic) only as long as necessary for management review. The following guidance illustrates the extent to which quotation or offer information should be recorded:

  - (1) Oral solicitations
    - (A) The contracting office should establish and maintain records of oral price quotations to clearly reflect the propriety of placing the order at the price paid with the supplier concerned.
    - (B) In most cases, this will reflect the names of the suppliers contacted and the prices and other terms and conditions quoted by each.
  - (2) Written solicitations
    - (A) For acquisitions up to the judiciary's small purchase threshold, limit written records of solicitations or offers to notes or abstracts to show:
      - prices;
      - delivery;
      - references to printed price lists used;
      - supplier or suppliers contacted;
      - other pertinent data; and
      - additional statements to support the award decision —when the selection of a vendor is based on best value, which involves an evaluation and comparison of cost or price and other factors.

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.41 [cont'd]

- (B) For acquisitions over the judiciary's small purchase threshold and up to \$10 million, when the contracting officer chooses to use the small purchase procedures in this section instead of standard competitive procedures in § 330, the contract file must include the following:
- (i) A brief written description of the procedures used in awarding the contract, including the fact that the procedures in § 325 were used;
  - (ii) The number of offers received;
  - (iii) An explanation, tailored to the size and complexity of the acquisition, of the basis for the contract award decision, and
  - (iv) Any justification required by this chapter (e.g., justification limiting competition, brand name justification).

(c) Taxpayer Identification Number (TIN)

- (1) If an oral solicitation is used, the contracting officer must ensure that the copy of the award document it in the procurement file sent to the payment office includes the contractor's TIN and type of organization, unless this information will be obtained from some other source (e.g., sam.gov, existing JIFMS record).
- (2) The contracting officer must disclose to the contractor that the judiciary may use the TIN to collect and report on any delinquent amounts arising out of the contractor's relationship with the judiciary. See: 31 U.S.C. § 7701(c)(3).

### § 325.43 Ordering Methods Under Small Purchase Procedures

Ordering methods under small purchase procedures include use of the purchase card, award of a purchase order or contract, and award of orders placed under BPAs or existing contracts (e.g., IDIQ or GWAC).

### § 325.45 ~~Purchase Order~~Legal Effect of Quotations

- (a) A purchase order is used to place open market orders when quotations have been obtained in response to an oral or written RFQ. Because a quotation is not a legal offer subject to acceptance and, consequently, cannot be accepted by the judiciary, to form a purchase binding contract. Therefore, a judiciary order issued in response to a supplier's quotation does not become a binding contract until the contractor either signifies establish a contract. The order is an offer by the judiciary to the supplier to buy certain supplies or services upon specified terms and conditions. A contract is established when the supplier accepts the offer.
- (b) When appropriate, the contracting officer may ask the supplier to indicate acceptance of an order by notifying the judiciary organization, preferably in writing. In other circumstances, the supplier may indicate acceptance by: furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.45 [cont'd]

- (a) ~~commencing delivery or performance of the work; or~~
- (b) ~~accepts the purchase order in writing.~~
- (c) If the judiciary issues an order resulting from a quotation, the judiciary may — by written notice to the supplier, at any time before acceptance occurs — withdraw, amend, or cancel its offer. **See:** § 325.45.30 (Termination and Cancellation of Purchase Orders and Contracts).

### § 325.45.10 Contents of ~~a~~ Purchase ~~Order~~Orders and Contracts

At a minimum, tThe following items must be included on each purchase order and contract awarded under this section:

- (a) purchase order or contract number and date;  
[. . .]

### § 325.45.15 ~~Purchase Order~~ Terms and Conditions for Purchase Orders and Contracts

- (a) To protect the judiciary's rights when acquiring products and/or services, it is important that basic terms and conditions be made a part of any purchase order or contract issued.
- (b) COs must include Clause 3-3, Terms and Conditions – Small Purchases, in open market ~~RFQs and solicitations~~, purchase orders, and contracts. It lists the basic terms and conditions required on any open market purchase order or contract estimated to be less than the judiciary's small purchase threshold. [. . .]

### § 325.45.20 Modification of Purchase Orders and Contracts

Modification of ~~Purchase Orders~~purchase orders and contracts must be processed on an SF-30 (Amendment of Solicitation/Modification of Contract) (or equivalent form), must identify the order it modifies, and must contain an appropriate modification number. If written acceptance is determined to be necessary to ensure the contractor's compliance, the CO must obtain a contractor's written acceptance of a ~~purchase order~~ modification. **See also:** Guide, Vol. 14, § 745 (Contract Modifications).

### § 325.45.25 Use of Unpriced Purchase Orders and Contracts

Unpriced purchase orders and contracts, in which the end price is not established at the time the purchase order is issued, may be used only when:

- [. . .]
- (c) Unpriced purchase orders and contracts must be thoroughly documented to support that the obligated/not-to-exceed amount is reasonable and monitored periodically to ensure that excess funds are deobligated in a timely manner. [. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 325.45.30 Termination and Cancellation of Purchase Orders and Contracts

If ~~ana purchase~~ order or contract needs to be ~~ended~~terminated before its completion then either a termination or cancellation needs to be processed, as described below.

- (a) Termination. If a purchase order or contract has been accepted in writing by the contractor or the contractor has commenced performance, then a termination must be processed. The CO must process the termination according to [Guide, Vol. 14, § 755 \(Contract Termination\)](#).
- (b) Cancellation. If a purchase order or contract has not been accepted in writing by the contractor or the contractor has not commenced performance, then a cancellation must be processed. The CO may cancel by notifying the contractor in writing that the purchase order or contract is being canceled and requesting the contractor's written acceptance of the cancellation.
  - (1) Acceptance of Cancellation. If the contractor accepts the cancellation and does not claim that costs were incurred as a result of beginning performance under the purchase order or contract, the ~~purchase order~~contractual instrument may be canceled. The CO must process a modification to cancel the ~~purchase order~~instrument and deobligate any funds.
  - (2) Rejection of Cancellation. If the contractor does not accept the cancellation or claims that costs were incurred as a result of beginning performance under the purchase order or contract, the CO must treat the action as a termination according to [Clause 3-3, Provisions, Clauses, Terms and Conditions – Small Purchases](#) and [Guide, Vol. 14, § 755 \(Contract Termination\)](#).

### § 330 Standard Competitive Contracting Procedures

#### § 330.10 Applicability

- (a) ~~The standard competitive contracting procedures in this section apply to procurements over the judiciary's small purchase threshold, including options, unless the contracting officer chooses to use the small purchase procedures (see: § 325) on procurements for commercial products and services whose value is not expected to be more than \$10 million, including options. This section describes procedures for the competitive procurement of products and services whose cost is estimated to exceed the small purchase threshold stated in § 325.10 (Applicability).~~

[. . .]

#### § 330.10.10 Format and Contents of Contracts

- (a) Format

Solicitations and contracts based on the use of Standard Competitive Contracting Procedures must follow the Uniform Contract Format (UCF).~~A contract is used when offers have been obtained in response to a written Request for Proposal (RFP) and follows the uniform contract format (UCF).~~ See: [Guide, Vol. 14, Appx. 1A \(Uniform Contract Format\)](#).

## REDLINE COMPARISON REFLECTING CHANGES

### § 330.10.10 [cont'd]

#### (b) Contract Face Page Contents

The face page of each contract must include following items:

(1) date;

(2) contract number;

(3) contractor's and CO's signatures (**Note:** Because an offer is subject to acceptance by the judiciary, a contract issued based on a proposal in response to an RFP is signed by both the contractor and the CO. ~~The contractor's UEI or Tax ID number (TIN) is included in the name and address block of the award document.~~); and

#### ~~(a) Face Page of a Contract~~

~~4) contractor's UEI or TIN. The following items must be included on~~in ~~the face page of each contract:~~

~~(1) date~~name ~~and contract number;~~address block of the award document.

~~(2) contractor's signature; and~~

~~(3) CO's signature.~~

#### ~~(b)(c)~~ Contract Terms and Conditions

To protect the judiciary's rights when acquiring products and/or services, ~~it is important that~~using standard competitive procedures, basic terms and conditions ~~(i.e., contract clauses)~~must ~~be made a~~ part of any contract.

### § 330.10.20(b) Recommended Time Frames for Offers [table]

Type of Product and Service	Offer Time
(2) Standard Commercial Products and Services	The CO <del>will make a decision as to</del> <u>may decide</u> the <del>sufficient</del> length of solicitation time by <del>taking into consideration</del> <u>considering</u> the availability of competition, complexity of the purchase, delivery time required, etc. [ . . . ]

### § 330.10.30 Provisions and Clauses

The CO ~~will~~must include the following clauses and provisions in all solicitations exceeding the judiciary's small purchase threshold (~~see: § 325.10 (Applicability)~~§ 325.05 (Judiciary's Small Purchase Threshold)) unless the prescription indicates otherwise.

~~(a)~~ Clause 2-57, Protecting, Reporting, and Responding to Incident Involving Sensitive Information..

(b) Provision 3-5, Taxpayer Identification and Other Offeror Information

## REDLINE COMPARISON REFLECTING CHANGES

### § 330.10.30 [cont'd]

- (~~b~~c) [Provision 3-15, Place of Performance.](#)
- (~~e~~d) [Provision 3-20, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.](#) [. . .]
- (~~d~~e) [Clause 3-25, Protecting the Judiciary's Interests when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.](#)
- (~~e~~f) [Provision 3-30, Certificate of Independent Price Determination](#) is included in all solicitations for firm-fixed price contracts or fixed-price with economic price adjustment, which are expected to exceed the judiciary's small purchase threshold. ~~See: § 325.10 (Applicability).~~ **See: § 325.05 (Judiciary's Small Purchase Threshold).** [. . .]
- (~~f~~g) [Clause 3-35, Covenant Against Contingent Fees.](#)
- (~~g~~h) [Clause 3-40, Restrictions on Subcontractor Sales to the Judiciary.](#)
- (~~h~~i) [Clause 3-45, Anti-Kickback Procedures.](#)
- (~~i~~j) [Clause 3-50, Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.](#)
- (~~j~~k) [Clause 3-55, Price or Fee Adjustment for Illegal or Improper Activity.](#)
- (~~k~~l) [Provision 3-70, Determination of Responsibility.](#)
- (~~m~~n) [Clause 7-20, Security Requirements](#) [. . .]
- (~~m~~n) [Provision 3-85, Explanation to Prospective Offerors.](#)
- (~~n~~o) [Provision 3-95, Preparation of Offers.](#)
- (~~o~~p) [Provision 3-100, Instructions to Offerors](#) [. . .]  
[. . .]
- (~~p~~q) [Clause 3-105, Audit and Records.](#)
- (~~q~~r) [Provision 3-115, Facsimile Offers](#) [. . .]
- (~~r~~s) [Clause 3-120, Order of Precedence.](#)
- (~~s~~t) [Provision 3-130, Authorized Negotiators.](#) [. . .]
- (~~t~~u) [Provision 3-135, Single or Multiple Awards](#) [. . .]
- (~~u~~v) [Clause 3-140, Notice to the Judiciary of Labor Disputes](#) [. . .]
- (~~v~~w) [Clause 3-145, Payment for Overtime Premiums](#) [. . .]
- (~~w~~x) [Clause 3-150, Contract Work Hours and Safety Standards Act – Overtime Compensation](#) [. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 330.10.30 *[cont'd]*

- (~~xy~~) [Clause 3-155, Walsh-Healy Public Contracts Act](#) [ . . . ]
- (~~yz~~) For applicable SCLS provisions and clauses, **see:** [§ 332.50 \(Required Clauses and Provisions\)](#).
- (~~zaa~~) [Provision 3-185, Evaluation of Compensation for Professional Employees](#) [ . . . ]
- (~~aabb~~) [Clause 3-205, Protest After Award](#) [ . . . ]
- (~~bbcc~~) [Provision 3-210, Protests](#) is included in all solicitations exceeding the judiciary's small purchase threshold. ~~**See:** § 325.10 (Applicability).~~ **See:** [§ 325.05 \(Judiciary's Small Purchase Threshold\)](#). [ . . . ]
- (~~eedd~~) [Clause 5-30, Authorization and Consent](#) [ . . . ]
- (~~ddee~~) Court organizations that can make payment by electronic funds transfer (EFT) will incorporate the following clauses as indicated: [ . . . ]

### § 330.40 Selection for Award

[ . . . ]

#### § 330.40.30 Best Value Awards

[ . . . ]

- (~~b~~) ~~Under the Contracting Officers' Certification Program (COCP) (**see:** [Guide, Vol. 14, § 140 \(Contracting Officers Certification Program\)](#)), not all certification levels are authorized for "best value" procurements. The "best value" method of evaluation is more complex; therefore, only appropriately trained and certified COs may solicit for best value offers. For COs holding COCP certification levels not delegated this authority, the solicitation package using "best value" must be submitted to PMD for written approval before soliciting offers/proposals.~~

### § 335 Justifications and Approvals for Limiting Competition

[ . . . ]

#### § 335.60 Limiting Competition – Open Market Purchases

[ . . . ]

##### § 335.60.30 Justification for Limiting Open Market Competition

[ . . . ]

- (c) Each JLOC must be signed by a ~~CO with delegated procurement authority at or exceeding~~ COCP Level 3 or Professional Level certified CO, and must include the CO's certification that, to the best of his or her knowledge and belief, the justification is accurate and complete. [ . . . ]

[ . . . ]

- (e) Each JLOC signed by a ~~CO holding delegated procurement authority at COCP~~ Professional Level 4 or above certified CO must be approved according to internal ~~PMD~~ AMO approval procedures.

[ . . . ]

## REDLINE COMPARISON REFLECTING CHANGES

### § 350.20 Procedural Requirements

[. . .]

#### § 350.20.40 Processing of Judiciary Protest

The CO ~~will~~must immediately forward the protest to PMDAMO, including a copy of the contract, any relevant documentation, and the CO's explanation and recommendation. [. . .]

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

### § 410 Contract Types

[. . .]

#### § 410.15 Selecting Contract Type

[. . .]

##### § 410.15.20 Solicitation Requirements

- (a) Provision 4-1, Type of Contract, with the appropriate contract type inserted as indicated, must be included in all solicitations except:
    - (1) firm-fixed-price procurements that do not exceed the judiciary's small purchase threshold (~~see: Guide, Vol. 14, § 140 (Contracting Officers Certification Program) and § 325.10 (Applicability)~~); § 325.05 (Judiciary's Small Purchase Threshold), and
- [. . .]

### § 410.20 Limitations

[. . .]

#### § 410.20.30 Exceptions

The PE approval requirement does not apply to CO Certification Program (COCP) ~~Level 6 or COCP Level 7~~ Professional level appointees. [. . .]

### § 410.30 Indefinite-Delivery Contracts

[. . .]

#### § 410.30.60 Delivery Orders or Task Orders

[. . .]

- (d) Blanket Delivery Orders

A blanket delivery order (BDO) may be used when an office anticipates there will be repetitive fixed price requirements for supplies within a single fiscal year, with little variation in the orders. BDOs may only be used with judiciary IDIQs. [. . .]

#### § 410.30.73 Documenting Exceptions to Fair Opportunity Requirement

[. . .]

- (d) Each JEFO signed by a CO holding delegated procurement authority at the COCP ~~Level 4 or above~~ Professional level must be approved according to internal PMDAMO approval procedures.

[. . .]

## REDLINE COMPARISON REFLECTING CHANGES

### § 410.40 Labor-Hour Contracts

[. . .]

#### § 410.40.30 Limitations

[. . .]

- (b) Use of this contract type requires a one-time delegation of authority from PMDAMO before issuance of the solicitation, **unless**:

[. . .]

- (3) the contracting officer is appointed at COCP Professional Level ~~6 or COCP Level 7~~.

[. . .]

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

### § 530 Architect-Engineer Contracts

#### § 530.10 Architect-Engineer Services

##### § 530.10.10 Delegation

Authority to award Architect-Engineer contracts under this section is delegated only to the COCP ~~Levels 5, 6, and 7~~ Professional Level. [. . .]

### § 550 Interagency Agreements, MOAs, and MOUs

[. . .]

#### § 550.40 IA Requirements

[. . .]

##### § 550.40.40 Transfer of Funds

[. . .]

- (c) Because IPAC transfers can only be accomplished at the AO, the CO must seek assistance from the ~~AO's Finance and Accounting~~ Financial Operations Division (FAOD) of the AO's Financial Management Office (FMO) to accomplish the payment. [. . .]

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

### § 630 Insurance

[. . .]

#### § 630.20 Types of Insurance

[. . .]

##### § 630.20.40 Clauses

- (a) Clause 6-20, Insurance – Work on or Within a Judiciary Facility is included in solicitations and contracts when:

[. . .]

- (2) the contract amount is expected to exceed the judiciary's small purchase threshold (**see: Guide, Vol. 14, § 325.10 (Applicability)05 (Judiciary's Small Purchase Threshold)**); and

[. . .]