

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WASHINGTON, D.C. 20544

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GUIDE TO JUDICIARY POLICY

TRANSMITTAL 14-022 VOLUME/PART 14 CHAPTER(S) 3

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 3 – Purchasing Methods](#)

This update adds guidance on procurement authority available to judiciary organizations when the Judiciary Emergency Response Team (JERT) activates for an imminent or actual incident. 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 Department of Administrative Services, at 202-502-1330.

REDLINE COMPARISON REFLECTING CHANGES

§ 331 Emergency Contracting Authority

This section provides guidance and expanded procurement authority to judiciary organizations to prepare for and recover from emergencies when the Judiciary Emergency Response Team (JERT) activates upon notice of an imminent or actual incident. **See:** Guide, Vol. 17, § 450.20 (Judiciary Emergency Response Team (JERT)).

§ 331.10 Applicability

This section applies to judiciary COs responsible for conducting procurements for a judiciary organization:

- (a) that is, or is reasonably expected to be, in imminent danger from an anticipated or current emergency; or
- (b) that requires expanded emergency contracting authority to aid in the recovery of a judiciary organization after an emergency.

§ 331.20 Emergency Flexibilities

- (a) Consistent with Guide, Vol. 14, § 130.20.25 (Authorization for Contracting and Delegating), the AO Director grants judiciary COs additional procurement authority to procure products and services necessary to restore the full operation of judiciary organizations, when conducting “open market” purchases (**see:** § 310.70) before, during, or after an emergency.
- (b) When the JERT activates upon notice of an imminent or actual incident, the authority to use these flexibilities is automatically granted to COs in threatened and affected judiciary organizations (e.g., organizations in hurricane warning zones, or watch zones that are likely to become warning zones.)

§ 331.20.10 Revised Requirements

- (a) Judiciary COs covered by this section are delegated authority to conduct limited competition and sole source procurements up to \$50,000 per transaction. This authority may be redelegated as provided in Guide, Vol. 14, § 120.20.10(b) (Delegation to Chief Judges and Certain Judiciary Officials).
- (b) By providing these emergency procurement flexibilities, this delegation provides a temporary deviation (i.e., waiver) to the following requirements:
 - (1) Procedures requiring competition for most actions between \$10,000 and \$25,000 (**See:** Guide, Vol. 14:
 - § 140.20.30 (Level 1 Delegation),
 - § 140.30.30 (Level 3 Delegation),
 - § 140.30.40 (Delegation Limitations),
 - § 310.80.30 (Competition),

REDLINE COMPARISON REFLECTING CHANGES

§ 331.20.10 [cont'd]

- § 325.15.10 (Competition Threshold), and
- Appx 1F (Contracting Officers' Certification Program – Level 3.); and
- (2) Requirement to obtain the PE's written concurrence when using the *public exigency* exception in 41 U.S.C. § 6101(b)(2)(B) to forego advertising above \$25,000. **See:** § 315.10.30(b).
- (c) Instead, the following procedures must still be followed:
 - (1) Contracting officers must document in writing the process for the:
 - (A) determination of the purchase, and
 - (B) maintenance of the emergency items necessary and appropriate for the judiciary organization.
 - (2) All purchase requests must be approved in writing by an individual with delegated authority, and a copy of the approval must be maintained with all other appropriate documentation.
 - (3) For non-competitive actions between \$25,000 and \$50,000 (using the *public exigency* exception in 41 U.S.C. § 6101(b)(2)(B)):
 - (A) the performance period may not exceed the time reasonably necessary to address the exigency; and
 - (B) the CO must document such actions in the procurement file consistent with § 335.20(a), as soon as practicable.

§ 331.20.20 Limitations

- (a) Generally, the procurement authority and flexibilities in this section will remain in effect for 60 days from when the JERT activates upon notice of an imminent or actual incident.
- (b) If required, the AO Director, Deputy Director, or PE may extend the duration of this authority by any method of communication practicable under the circumstances. The granting authority and the impacted judiciary organizations must document any extension in files used during the emergency period.
- (c) However, the authority may not be extended beyond a reasonable period necessary to bring the judiciary organizations into full operation.

REDLINE COMPARISON REFLECTING CHANGES

§ 331.30 Supplemental Funds

- (a) Judiciary organizations may request emergency supplemental funds, in addition to their normal fiscal year allotments, to conduct emergency procurements covered by this section.
- (b) Court units should submit their emergency supplemental requests via InfoWeb. However, if the InfoWeb system cannot be accessed, court units should contact their assigned budget analyst.
- (c) Federal defender organizations should contact the Program Budget Branch in the Program Operations Division of the AO's Defender Services Office for emergency supplemental requests.

§ 331.40 Support and Assistance

Judiciary organizations may contact the AO's PMD or the PE for support and assistance on using procurement flexibilities during emergencies.