IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YUMA

In the Matter of: ADOPTION OF THE PROCUREMENT RULES OF THE JUDICIAL BRANCH FOR THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF YUMA, THE CLERK OF THE SUPERIOR COURT AND THE YUMA COUNTY ADULT PROBATION DEPARTMENT.	Administrative Order No. 02-05

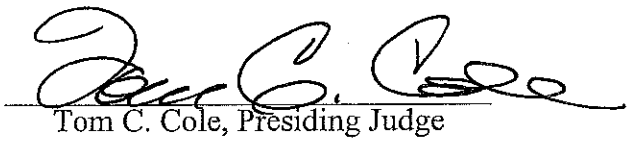
In accordance with the administrative authority vested in the Supreme Court of Arizona by Article VI, Section 3, of the Arizona Constitution and pursuant to A.R.S. §41-2501(E), the Procurement Rules for the Judicial Branch were adopted by the Arizona Supreme Court by Administrative Order 89-10, which superseded Administrative Orders 84-15 and 85-9. These Procurement Rules were last modified by Administrative Order 2000-71 (dated October 24, 2000), which replaced Administrative Order No. 99-53.

Pursuant to Article VI, Section 11, of the Arizona Constitution, Rule 92, Rules of Supreme Court, and Rule V-A, Arizona Supreme Court Administrative Order 93-30, as amended by Administrative Order 96-32, replacing Administrative Order 96-25, and as Presiding Judge of the Yuma County Superior Court,

IT IS ORDERED that the attached Procurement Rules for the Judicial Branch, as the same may hereafter and from time to time be amended, are adopted as the Procurement Rules of the Superior Court of the State of Arizona in and for the County of Yuma, including the Clerk of the Superior Court and the Yuma County Adult Probation Department.

IT IS FURTHER ORDERED that these Procurement Rules shall take effect on March 1, 2002.

DATED this 8th day of February, 2002.



Tom C. Cole, Presiding Judge

Copies to:

Hon. Thomas A. Thode
Hon. Kirby Kongable
Hon. John N. Nelson
Hon. Andrew W. Gould
Hon. John P. Plante
Hon. Denise Gaumont
Beverly Frame, Clerk of the Superior Court
Martin J. Krizay, Chief Adult Probation Officer
Tim Hardy, Director of Juvenile Court
Margaret Guidero, Court Administrator
Robert McLendon, Chair, Yuma County Board of Supervisors
Wally Hill, County Administrator

RECEIVED
OCT 25 2000
ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
EXECUTIVE OFFICE

IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED
OCT 24 2000
NOEL K. DESSAINT
CLERK SUPREME COURT
BY

In the Matter of:	)	
	)	
	)	
	)	Administrative Order
PROCUREMENT RULES FOR THE	)	No. 2000- 71
JUDICIAL BRANCH	)	(Replaces Administrative Order No. 99-53)
	)	

The Procurement Rules for the Judicial Branch were last amended by Administrative Order 99-53. Amendments to the judicial branch procurement rules are now needed to modify the requirements for sealed bids and advertising consistent with provisions adopted by the State of Arizona.

In accordance with the administrative authority vested in the Supreme Court of Arizona by Article VI, Section 3, of the Arizona Constitution and pursuant to A.R.S. § 41-2501(E),

IT IS ORDERED that the attached Procurement Rules for the Judicial Branch are adopted.

IT IS FURTHER ORDERED that this order replaces Administrative Order 99-53.

Dated this 24th day of October, 2000.

THOMAS A. ZLAKET
Chief Justice

PROCUREMENT RULES FOR THE JUDICIAL BRANCH

Purpose:

1. The purposes of these rules are to:

   1.1 Establish a procurement policy for the Judicial Branch.

   1.2 Allow for the continued development of procurement policies and practices for the Arizona Judicial Branch.

   1.3 Make as consistent as possible the procurement policies and practices among the various courts operating under this policy.

   1.4 Provide for public confidence in the procedures followed in public procurement and safeguards for the maintenance of a judicial branch procurement system of quality and integrity.

   1.5 Provide for the fair and equitable treatment of all persons who deal with the procurement system of the Arizona Judicial Branch.

   1.6 Provide economies, where possible, in Judicial Branch procurement activities and maximize to the fullest extent practicable the purchasing value of public monies of the State.

   1.7 Foster effective competition within the free enterprise system regarding Judicial Branch procurement requirements.

   1.8 Obtain in a cost effective and responsive manner the materials, services and construction required by the Arizona Judicial Branch in order to better serve the State's residents and businesses and to allow for the timely implementation of judicial department responsibilities.

Application and Exceptions:

2. These rules apply to the Arizona Supreme Court, the Arizona Court of Appeals, the Commission on Judicial Conduct, and the Commissions on Appellate and Trial Court Appointments. As used in these rules, the term "Judicial Branch Unit" means any of the above-named courts and commissions.

3. These Rules apply to the Arizona Superior Court, the Justice of the Peace Courts, and the Municipal Courts if adopted by the Presiding Judge of the Superior Court in the county. As used in these rules, the term "Judicial Branch Unit" means any of the above-named courts if adopted by the Presiding Judge of the Superior Court in the county for that court.

   If these Rules are not adopted, the Presiding Judge of the Superior Court, shall have forwarded to the Administrative Office of the Courts a copy of the county or city procurement rules/policies/procedures under which each court in the county will operate. The county or city procurement rules/policies/procedures on file with the Administrative Office should be substantially equivalent to the State procurement rules or these Judicial Branch procurement rules, and shall be kept current at all times.

4. These rules apply to every procurement requiring expenditure of public monies except:

4.1 state subsidies, grants contracts, interagency agreements, intergovernmental agreements, or similar financial agreements between the Supreme Court, any political subdivision, and any court of the Arizona Judiciary or any financial agreement made pursuant to law, the Arizona Constitution, or other order or rule of the Arizona Supreme Court.

4.2 contracts or agreements entered into by the Arizona Supreme Court pursuant to A.R.S. § 12-108(A) to have published and printed the report of decisions of the Arizona Supreme Court and Court of Appeals.

4.3 other published and printed material related to the Arizona Supreme Court's constitutional rule-making authority, administrative supervision over all the courts of the state, and any other constitutional responsibility.

4.4 leases of real property and space leases or rentals.

4.5 contracts or agreements entered into with the National Center for State Courts.

4.6 agreements negotiated by legal counsel representing the Judicial Branch in settlement of litigation or threatened litigation.

4.7 contracts or agreements for preparation, administration, or grading of the Arizona State Bar Examination.

5. A Judicial Branch Unit may enter into intergovernmental and interagency agreements for purposes of intergovernmental procurement. For purposes of these rules and where applicable and consistent with these rules, the provisions of A.R.S. § 41-2631 through 41-2637 may be applied when suitable.

6. A Judicial Branch Unit may purchase from contracts awarded by the State of Arizona or other federal, state, or local agencies if equivalent public bidding requirements have been followed.

Definitions:

7. For purposes of these rules and where applicable and consistent with these rules, the definitions contained in A.R.S. § 41-2503 may be applied when suitable. In addition, the following definitions are adopted:

7.1 "Respective designee" means the Administrative Director of the Courts for the Arizona Supreme Court, including all budgets under its supervision, the Clerks of the Court for the Court of Appeals, the Presiding Judges for the Superior Court, and the Executive Director for the Commission on Judicial Conduct.

7.2 "Person," in addition to the definition contained in A.R.S. § 41-2503(15), shall also include all courts subject to the Supreme Court's administrative supervision pursuant to Article VI, Section 3 of the Arizona Constitution.

"Days" mean calendar days and shall be computed pursuant to A.R.S. § 1-243.

"Legal counsel" means a person licensed as an attorney pursuant to Rule 27 of the Arizona Rules of the Supreme Court.

"May" denotes the permissive.

7.6 "Shall" denotes the imperative.

7.7 "Chief Justice" means the Chief Justice of the Arizona Supreme Court.

7.8 "Chief Judge" means the Chief Judge of each division (Division One and Two) of the Arizona Court of Appeals.

7.9 "Presiding Judge" means the presiding judge of the Superior Court in each county.

7.10 "Administrative Director" means the Administrative Director of the Courts.

7.11 "Clerks of the Court" means the Clerk of the Court for each division of the Arizona Court of Appeals.

7.12 "Executive Director" means the Executive Director for the Commission on Judicial Conduct.

7.13 "Commission Chair" means the Chairman of the Commission on Judicial Conduct.

7.14 "Small business" means a business organized for profit not dominant in their field of operation with average gross receipts for the prior three fiscal years of less than $4.0 million or employing fewer than 500 employees. Small business status is presumed if the business is registered on the list of small businesses maintained by the State Procurement Office.

7.15 "Specification" means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.

7.16 "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this code, and a fee, if any.

7.17 "Cost-plus-a-percentage-of-cost contract" means a contract in which, prior to the completion of the work, the parties agree that the contractor's fee will be a predetermined percentage of the total cost of the work when the cost is unknown and not subject to a formula or other limitations.

Administration:

8. The respective designee may adopt other administrative practices and procedures, consistent with these rules, governing the procurement and management of all materials, services and construction to be procured by the Judicial Branch Unit, including the disposal of materials.

9. The respective designee for each Judicial Branch Unit shall serve as its central procurement officer.

10. Except as otherwise provided in these rules, the respective designee for each Judicial Branch Unit shall, in accordance with these rules:

10.1 Procure or supervise all procurement.

10.2 Establish guidelines for the management of all inventories of materials.

10.3 Sell, trade, or otherwise dispose of surplus materials.

Surplus Property:

11. All equipment or materials to be disposed of by a Judicial Branch Unit will be through the Department of Administration Surplus Property Management Office or through a designated local government property disposition office, unless the respective designee of the Judicial Branch Unit determines in writing that the equipment or materials may be exchanged for an item of equal or greater value, or if in the process of a procurement under these rules may receive a cost reduction for the "trade-in" of the equipment or materials.

Authority and Liability:

12. The respective designee for each Judicial Branch Unit may delegate authority for administration of these rules to members of their staff.

13. Payment for any services valued at an aggregate amount of $500.00 or more shall not be made unless pursuant to a written contract. Purchases to meet current procurement requirements for like materials or services shall not be artificially divided or fragmented to circumvent this rule.

A person who contracts for or purchases any material, services or construction in a manner contrary to the requirements of these rules is personally liable for the recovery of all public monies paid plus twenty percent of such amounts and legal interest from the date of payment and all costs and damages arising out of the violation of A.R.S.§ 41-2616(A).

A person who intentionally or knowingly contracts for or purchases any material, services or construction pursuant of a scheme or artifice to avoid the requirements of these rules is guilty of a Class 4 felony according to A.R.S. § 41-2616(B).

A person who serves on an evaluation committee for an invitation for bids, request for proposals, or request for qualification shall disclose any interest in the procurement. The person shall sign a statement before reviewing bids or proposals that the person has no interest in the procurement other than that disclosed and will have no contact with any representative of the competing vendors related to the particular procurement during the course of evaluation of bids or proposals (until such time a contract is awarded), except those contacts specifically authorized by Rules 28, 36, and 39. The person shall disclose on the statement any contact unrelated to the pending procurement that the person may need to have with a representative of the competing vendors. A person who serves on an evaluation committee and who fails to disclose contact with a representative of the competing vendors or who fails to provide accurate information on the statement is subject to a civil penalty of at least one thousand dollars, but not more than ten thousand dollars.

14. For purposes of these rules and where applicable and consistent with these rules, the definitions contained in A.R.S. § 41-2531, Chapter 251, Laws of 1984, may be applied when suitable.

    The evaluation committee, through its chair, may seek technical information from persons outside the committee to obtain the expertise needed to make an informal choice.

Competitive Sealed Bidding:

15. Contracts shall be awarded by competitive sealed bidding, except as provided in these rules.

16. For competitive sealed bidding a document shall be prepared entitled "Invitation for Bids," which shall be made available to prospective bidders. This document shall include a purchase description, time and place for publicly opening the bids, and the evaluation criteria.

17. Adequate public notice of the Invitation for Bids shall be given a reasonable time before the date set forth in the Invitation for opening of bids. Adequate notice may include publication one or more times in a newspaper of general circulation within a reasonable time before bid opening. If the Invitation for Bids is for the procurement of services other than those described in A.R.S. § 41-2513 and § 41-2578, the notice shall be published in a single newspaper or in multiple newspapers within the state. The publication shall not be less than two weeks before the bid opening and shall be circulated within the affected governmental jurisdiction. The notice may also be posted at a designated site on a worldwide public network of interconnected computers.

18. Bids shall be opened publicly at the time and place designated in the Invitation for Bids. The amount of each bid, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening. The bids shall be open for public inspection after a contract is entered into. Where the bidder designates and the Judicial Branch Unit concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential.

19. Bids shall be unconditionally accepted without alteration or correction, except as authorized in Rule 20. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids. No criteria may be used in bid evaluation that are not set forth in the Invitation for Bids.

20. Correction or withdrawal of erroneous bids before or within five days after bid opening, based on bid mistakes, may be permitted. In all other instances, after bid opening, no corrections in bid prices or other provisions of bids prejudicial to the interest of the Judicial Branch or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contract based on bid mistakes, shall be supported by a written determination made by the respective designee of the Judicial Branch Unit.

21. The contract shall be entered into with the lowest responsible and responsive bidder whose bid conforms to all material respects to the requirements and criteria set forth in the Invitation for Bids and best meets the needs of the Judicial Branch Unit. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder if a competing bidder located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state. If all bids for a procurement exceed available monies and the low responsive and responsible bid does not exceed such monies by more than five percent, the Judicial Branch Unit may, in situations in which time or economic considerations preclude re-solicitation of bids, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies.

22. The multi-step sealed bidding method may be used if the respective designee of the Judicial Branch Unit determines, in writing, that it is not practical to initially prepare a definitive purchase description, which is suitable to permit a contractual agreement based on

competitive sealed bidding. An Invitation for Bids may be issued requesting the submission of technical offers to be followed by an Invitation for Bids, limited to those bidders whose offers are determined to be acceptable under the criteria set forth in the first solicitation, except that the multi-step sealed bidding method shall not be used for construction contracts.

Competitive Sealed Proposals:

23. If the respective designee of a Judicial Branch Unit determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the Judicial Branch Unit, a contract may be entered into by competitive sealed proposals. The respective designees may determine that it is either not practicable or not advantageous to the Judicial Branch Unit to procure specified types of materials or services by competitive sealed bidding, except that the competitive sealed proposal method shall not be used for construction contracts.

24. Proposals shall be solicited through a Request for Proposals.

25. Adequate public notice of the Request for Proposals shall be given pursuant to Rule 17.

26. Proposals shall be opened publicly at the time and place designated in the Request for Proposals. The name of each offeror shall be publicly read and recorded. All other information contained in the proposal shall be confidential, so as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. The proposals shall be open for public inspection after a contract is entered into. Where the bidder designates and the Judicial Branch Unit concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential.

27. The Request for Proposals shall state in advance the relative importance of price and other evaluation factors.

28. If provided for in the Request for Proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible to permit a contractual agreement for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and before finalization of a contract for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

29. The contract shall be entered into with the responsible offeror whose proposal is determined in writing to be the most advantageous to the Judicial Branch Unit taking into consideration the evaluation factors set forth in the Request for Proposals and discussions pursuant to Rule 28. No other factors or criteria may be used in the evaluation. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal if a competing offeror located outside this state is not subject to a transaction privilege or use tax of a political subdivision of this state.

Request for Qualification:

30. If the respective designee of a Judicial Branch Unit determines in writing that the use of competitive sealed bidding or competitive sealed proposals is either not practicable or not advantageous to the Judicial Branch Unit, contracts may be entered into by issuance of a Request for Qualification. The respective designee may determine that it is either not practicable or not advantageous to the Judicial Branch Unit to procure specified types of services by competitive sealed bidding or competitive sealed proposals, except that the Request for Qualification method shall not be used for construction contracts.

31. Qualified respondents shall be solicited through a Request for Qualification.

32. The Request for Qualification method shall only be used for procurement of contracts for services in which no warranty, express or implied, is made by the Judicial Branch Unit to the contractor that any services will be purchased during the term of the contract. Contracts awarded pursuant to a Request for Qualification shall state that the services are being purchased only on an "as needed" basis and shall further be subject to the provisions of Rules 45 and 61.

33. The Request for Qualification shall state in advance all qualification criteria to be met by the respondent, which may include but are not limited to any licensing, certification, inspection or insurance requirements. Responses to the Request for Qualification shall also include detailed and specific information as to the services to be provided for the cost proposed and a complete explanation of how the proposed cost was determined.

34. Adequate public notice of the Request for Qualification shall be given pursuant to Rule 17.

35. Responses to a Request for Qualification shall be opened publicly at the time and place designated in the Request for Qualification. The name of each respondent shall be publicly read and recorded. All other information contained in the response shall be confidential, so as to avoid disclosure of contents prejudicial to competing respondents during the process of negotiation. The responses shall be open for public inspection after a contract is entered into. Where the respondent designates and the Judicial Branch Unit concurs, trade secrets or other proprietary data contained in the response shall remain confidential.

36. If provided for in the Request for Qualification, discussions may be conducted with qualified respondents who submit responses determined to be reasonably susceptible to permit a contractual agreement for the purpose of clarification to assure full understanding of, and responsiveness to, the qualification requirements. Respondents shall be accorded fair treatment with respect to any opportunity for discussion and revision of responses, and such revisions may be permitted after submissions and before finalization of a contract for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from responses submitted by competing respondents.

37. The Judicial Branch Unit may enter into a contract with all or a specified number of respondents whose qualifications are determined in writing to best meet the qualification criteria of the Judicial Branch Unit, taking into consideration any evaluation factors set forth in the Request for Qualification and discussions pursuant to Rule 36. No other factors or criteria may be used in the evaluation. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most qualified respondent(s) if a competing respondent located outside this state is not subject to a transaction privilege or use tax of a political subdivision of this state.

Sole Source Procurement:

38. A contract may be entered into for procurement without competition if the respective designee of the Judicial Branch Unit determines that no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

Emergency Procurement:

39. Notwithstanding any other provision of these rules, the respective designee may make or authorize emergency procurement if there exists a threat to public health, welfare, or safety or if an urgent and compelling situation exists that makes compliance with Rules 15 or 23 impracticable, unnecessary, or contrary to the public interest, except that such procurement shall be as competitive as is practicable under the circumstances. A written determination of the basis for the procurement and the reason for the selection of the particular contractor shall be included in the contract file.

Alternative Means of Procurement:

40. Notwithstanding any other provision of these rules, when compliance with Rules 15 and 23 is impracticable, unnecessary, or contrary to the public interest the respective designee may adopt a written alternative means of procurement that is as competitive as is practicable for each specific type of purchase for which an alternative means of procurement -is -used.

Record of Sole Source and Emergency Contracts:

41. The respective designee for each Judicial Branch Unit shall maintain a record listing all contracts in excess of seventy-five thousand dollars made under Rules 38 or 39 for a minimum of five years. The record shall contain each contractor's name, the amount and type of each contract, and a general description of the materials, services, or construction procured under each contract.

Rejection or Cancellation:

42. An Invitation for Bids, Request for Proposals, or Request for Qualification may be canceled or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation if it is in the best interest of the Judicial Branch Unit.

Non-Responsibility:

43. A written determination of non-responsibility of a bidder or offeror may include, but not be limited to, the unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility. A finding of non-responsibility shall not be construed as a violation of the rights of any person.

Bid and Performance Security:

44. A Judicial Branch Unit may require the submission of security to guarantee faithful bid and contract performance. The amount and type of security required for each contract shall be in the sole discretion of the Judicial Branch Unit except as provided for construction contracts

in Rule 58. The requirement for security shall be included in the Invitation for Bids or Request for Proposals.

Cost or Pricing Data:

45. For purposes of these rules, and where applicable and not inconsistent with these rules, the provisions of A.R.S. § 41-2543, Chapter 251, Laws of 1984, may be applied.

Contract Form:

46. Subject to the limitations of these rules, any type of contract that will promote the best interests of the Judicial Branch may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only if a determination is made in writing that such contract is likely to be less costly to the Judicial Branch than any other made in writing that such contract is likely to be less costly to the Judicial Branch than any other type or that it is impracticable to obtain the procurement required except under such a contract.

47. No cost-reimbursement contract shall be used unless the proposed contractor certifies in writing that the contractor's accounting system is adequate to allocate costs, and the Judicial Branch Unit is satisfied as to the validity of the certification.

Multi-year Contracts:

48. Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time exceeding one year, provided the length of any contract exceeding one year and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. The respective designee of the Judicial Branch Unit shall determine in writing that such a contract would be advantageous to the Judicial Branch. Contracts exceeding one year shall be subject to the provisions of Rules 49 and 50.

49. Contracts having a duration exceeding one year shall be utilized only if the respective designee of the Judicial Branch Unit determines in writing that requirements giving rise to the contract are reasonable and continuing, and such a contract, in their best judgment will serve the best interests of the Judicial Branch Unit by encouraging effective competition or otherwise promoting economies in procurement and expenditures.

50. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. Subject to the availability of funds, costs for materials and services rendered to the date of cancellation, and cancellation costs, may be paid pursuant to the terms of the contract.

Inspection, Records and Audit:

51. The Judicial Branch Unit may at reasonable times inspect or cause to be inspected the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract or proposed contact.

52. A Judicial Unit may, at reasonable times and places, audit or cause to be audited the books and records of any person who submits cost or pricing data as provided in these rules to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall

maintain the books and records that relate to the cost or pricing data for five years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the respective designee of the Judicial Branch Unit.

53. A Judicial Branch Unit is entitled to audit, or cause to be audited, the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of five years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the respective -designee -of -the -Judicial -Branch -Unit.

54. All procurement records shall be retained and disposed of by each Judicial Branch Unit in accordance with records retention schedules adopted by the Administrative Director of the Courts.

Specifications:

55. A Judicial Branch Unit may prepare and use its own specifications and may obtain advice and assistance from personnel of agencies in the development of specifications.

56. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Judicial Branch's needs and shall not be unduly restrictive.

57. All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Judicial Branch's needs and shall not be unduly restrictive.

Construction and Professional Services:

58. For purposes of these rules and where applicable and not inconsistent with these rules, construction contracts in excess of the amount stated in Rule 62 are governed by the provisions of A.R.S. § 41-2573 through § 41-2577.

59. Architect, engineer, assayer, geologist, landscape architect and land surveying services shall be procured as provided for in these rules.

60. Contracts for services shall be on the basis of demonstrated competence and qualifications for the types of services required and at fair and reasonable prices.

61. For the purposes of these rules, contracts for reimbursement of costs shall identify what costs are to be reimbursed, and the amount, or the method or rate by which the amount shall be computed.

Exception for Contracts $35,000 or Less:

62. Any procurement of each Judicial Branch Unit that does not exceed an aggregate dollar amount of thirty-five thousand dollars is exempt from the requirements of Rules 15 and 23, except that procurement shall be as competitive as is practicable under the circumstances. Procurement requirements shall not be artificially divided or fragmented so as to qualify under this rule and to circumvent the source selection procedures required by Rules 15 and 23. For purposes of these rules, "aggregate" shall mean the sum of any existing, current procurement

requirements for like materials or services. Procurement of $35,000 or less shall utilize the procedures outlined in Rule 64 and are exempt from the sealed bidding or RFP requirements of Rule 15 and 23.
Any procurement that does not exceed an aggregated amount of less than ten thousand dollars shall be, where practicable, from small businesses. It is declared to be impracticable to procure from a small business under Rules 38 and 39 when purchases are not expected to exceed $1,000 or, when it is not the best, most economical, most efficient, or most convenient way to conduct official business.

Certain Purchases in Excess of $35,000:

63. Unless otherwise exempted, a procurement having an aggregate amount of more than $35,000 shall follow the procedures of Rule 15 (IFB) or Rule 23 (RFP). For purposes of procurement rules, "aggregate" shall mean the sum of any existing, current procurement requirements.

It is sometimes difficult to determine what items are included in procurement for purposes of determining the $35,000 threshold. While projects are not always clear, the following examples are illustrative:

63.1 Office Supplies

If the amount of office supplies being ordered at one time exceeds $35,000, the purchase would need to be bid. Thus, if we are selecting a vendor for the purpose of buying paper or office supplies for all departments for the entire year, and the total cost will exceed $35,000, then the purchase should be bid because the procurement was for the entire year. This is true even if periodic orders and deliveries of general office supplies do not exceed $35,000. Individual, unique purchases of office supplies that may not be available from the contract vendor and do not exceed $35,000 would not need to be bid (even if at the end of the year they totaled more than $35,000). The key here is to determine "what is it I am procuring?", a one-time purchase of less than $35,000 or a vendor to provide supplies for the year where the value of the contract will exceed $35,000.

63.2 Video Tape Projects

If each video tape produced is an independent product, the cost of each tape shall be used in determining whether to bid. For example, if three tapes are to be produced in one year on three different subjects at three different times, each costing $12,000, then they would not require sealed bids. If you will produce three tapes all on one subject, as part of a series for a total cost of $36,000, then you would bid the project.

63.3 Outside Printing

If the cost to produce a newsletter is $6,000 per issue and you plan to send six issues and you want a vendor to print, mail, etc., then you would be required to bid since the procurement is for a single project (six issues of the newsletter). If throughout the year you have six separate printing projects, each costing $6,000, you would not be required to bid.

63.4 Projects

Example: You are assigned to organize and equip a new mail room. Purchases should not be artificially divided to bring the amount below $35,000: however, in completing a project, there are logical, reasonable divisions of costs that can be made.

This project includes construction (walls, counters, etc.), purchasing of equipment (scale, postage meter, etc.), furniture (desk, chair), and supplies (paper, pencils, etc.). You do not need to aggregate all of those items to determine the $35,000 threshold. Construction should be seen as a purchase, mail equipment is another purchase, and furniture another. If the construction amount exceeds $35,000, then it should be bid. The same is true for the mailing equipment. However, if the construction will cost $20,000 and the mailing equipment $17,000, then the procedures for purchases of less than $35,000 could be followed.

There should be a logical division of purchases when completing a project. It would not be acceptable to divide the purchasing of the mailing equipment (scale, postage machine, etc.) if collectively these items cost more than $35,000.

63.5 In General

Nothing in these guidelines is meant to require the purchasing of non-compatible equipment. The ability of new equipment to be compatible with existing equipment may be considered when making purchasing selections.

If there is a threat to the public health, welfare, or safety, or if an urgent and compelling situation exists that makes compliance with bidding requirements impractical, unnecessary or contrary to the interest of the Judicial Branch, approval may be granted to waive the bidding requirements. If you believe such a situation exists, contact the procurement officer for assistance in securing the necessary approval. If you cannot determine if your project should be subject to the formal competitive process, contact the procurement officer for a determination.

Nothing in this policy shall preclude the use of sealed bids (or RFPs) for procurement of $35,000 or less if desired.

Purchases Not Exceeding an Aggregate Amount of $35,000:

64. Purchases that do not exceed an aggregate dollar amount of $35,000 are exempt from requirements of Rules 15 and 23, but shall be made according to the following procedures:

64.1 Purchases estimated to cost between $10,000 and $35,000 require written quotations from at least three vendors selected by the purchaser.

64.2 Purchases estimated to cost between $5,000 and $10,000 require at least three written or verbal quotations.

64.3 Purchases estimated to cost less than $5,000 shall be made using comparative pricing providing for adequate and reasonable competition.

64.4 Quotations, written and verbal, shall be documented and retained with documentation of the purchase.

64.5. Vendors may be selected taking into consideration the price, purchaser's past experience, the vendor's reputation, availability of good or services, the service level of the vendor, and compatibility of equipment. Other specific criteria may be utilized as necessary given the nature of the specific purchase. Award shall be made to the responsible vendor who submits the quotation that is most advantageous to the court and conforms to the purchase requirements.