

1 **Rule 3-412. Procurement of goods and services.**

2 **Intent:**

3 To ~~identify the respective responsibilities of~~establish policies and procedures for ~~the judiciary~~
4 ~~and the Department of Administrative Services in~~ the procurement of goods and services in the
5 judicial branch.

6 **Applicability:**

7 This rule ~~shall apply~~applies to the judiciary's expenditure of funds appropriated by the
8 legislature.

9 **Statement of the Rule:**

10 (1) **Definitions.** ~~Except as provided in Subsection (2), a~~All terms are defined as provided in
11 by the Utah Procurement Code, ~~as amended, the Regulations of the Utah State Procurement~~
12 ~~Policy Board, as amended and the Division of Purchasing's Policies and Procedures. Any~~
13 ~~discrepancy between the statutory definition and the definition contained in the regulations shall~~
14 ~~be controlled by the statutory definition.~~

15 (2) **Chief procurement officer.** ~~As used in this rule,~~The state court administrator is the "chief
16 procurement officer" ~~means the State Court Administrator~~for the judicial branch.

17 (3) **Procurement officers.** The ~~s~~SState ~~c~~CCourt ~~a~~AAdministrator may designate others to serve as
18 procurement officers for various parts of the judiciary. ~~For example, court executives are the~~
19 ~~procurement officers for their courts. The State Court Administrator or designee or a~~
20 ~~procurement officer may enter into contracts or make written determinations with respect thereto~~
21 ~~as provided in this rule. Court Purchasing will advise procurement officers on purchases to~~
22 ~~ensure compliance with rules, policies, and statutes.~~

23 (4) Compliance with the law - Conflicts. The judiciary must comply with the Utah Procurement
24 Code. The state court administrator, a designee, or a procurement officer may enter into a
25 contract or make a written determination as provided in this Code and the Accounting Manual.
26 Any conflicts between the Accounting Manual and this rule will be resolved in favor of this rule.

27 ~~(4) Contracts to conform to statute and regulations.~~

28 ~~(4)(A) All contracts for the procurement of supplies, services, or construction entered~~
29 ~~into, by or on behalf of the judiciary, shall conform to the Utah Procurement Code, as~~
30 ~~amended, the Regulations of the Utah State Procurement Policy Board, as amended~~
31 ~~and the Division of Purchasing's Policies and Procedures. Any discrepancy between the~~
32 ~~procedures provided for by statute and the procedures provided for by regulation shall~~
33 ~~be controlled by the statutory procedures.~~

34 ~~(4)(B) Subject to the availability of funds, the State Court Administrator may establish~~
35 ~~within the administrative office a procurement section that shall have the responsibility~~
36 ~~and authority as provided by the Utah Procurement Code and the Regulations of the~~
37 ~~Utah State Procurement Policy Board. Unless a procurement section is established, the~~

38 ~~judiciary shall work with and through the Department of Administrative Services, Division~~
39 ~~of Purchasing in the procurement of supplies, services, or construction.~~

40 ~~(5) Authority to contract.~~

41 ~~(5)(A) Contracts for the procurement of supplies, services, or construction for an~~
42 ~~amount greater than \$5000 per individual item or \$10,000 per overall purchase~~
43 ~~shall be approved by the state court administrator or a designated procurement~~
44 ~~officer. General Counsel shall approve such contracts as to form and legal~~
45 ~~sufficiency, and the manager of finance shall approve such contracts as to~~
46 ~~availability of funds. Other provisions for contract management contained in this~~
47 ~~Code shall be followed if they apply to the particular contract.~~

48 ~~(5)(B) Requests to enter into contracts greater than \$5000 per individual item or~~
49 ~~\$10,000 per overall purchase shall be directed to the Chief Procurement Officer~~
50 ~~or designee. The Chief Procurement Officer or designee shall coordinate all~~
51 ~~procedures required by the Utah Procurement Code, as amended, the~~
52 ~~Regulations of the Utah State Procurement Policy Board, as amended and the~~
53 ~~Division of Purchasing's Policies and Procedures. Before final award of the~~
54 ~~contract, the contract shall be approved pursuant to paragraph (5)(A).~~

55 ~~(5)(C) Court executives are authorized to approve and enter into contracts for the~~
56 ~~procurement of supplies, services, or construction on behalf of their courts when~~
57 ~~they are under the small purchase rule thresholds of up to \$5,000 for individual~~
58 ~~items and up to \$10,000 total per purchase. Court executives may enter into~~
59 ~~such contracts subject to the availability of funds and in accordance with~~
60 ~~paragraph (4) of this rule.~~

61 (5) Procurement limits and procedures.

62 (5)(A) Small purchase limit. Subject to the availability of funds, the deputy state court
63 administrator, court level administrators, trial court executives, and directors in the
64 Administrative Office are authorized to approve and enter into contracts for the
65 procurement of supplies, services, or construction on behalf of their department or courts
66 when the contract is under the small purchase thresholds of up to \$5,000 per individual
67 item or \$10,000 per overall purchase. Court Purchasing will advise individuals granted
68 purchasing authority under this paragraph to ensure compliance with this Code, court
69 policies, the Accounting Manual, and the Utah Procurement Code.

70 (5)(B) Professional services and outside counsel. The small purchase limit for
71 professional services and consultants is a maximum of \$100,000 per project. The
72 purchaser must review the qualifications of a minimum of three providers, rank them,
73 and begin direct fee negotiations with the highest-ranked provider. The procurement of
74 outside legal counsel, litigation-related consultants, expert witnesses, and litigation
75 support services must be approved by the Council. The procurement of such services
76 may be processed as a small purchase up to a maximum of \$250,000 per contract. Fees
77 must be reasonable and within industry standards.

78 (5)(C) **Court purchasing.** Requests to enter into contracts greater than \$5,000 per
79 individual item or \$10,000 per overall purchase must be directed to Court Purchasing.
80 Court Purchasing will coordinate all procedures for such purchases as required by this
81 Code, court policies, the Accounting Manual, and the Utah Procurement Code.

82 (5)(D) **Approval.** Purchases under paragraphs (5)(B) and (5)(C) must be approved by
83 the state court administrator or a designee. General Counsel must approve such
84 contracts as to form and legal sufficiency. The Finance Director must approve such
85 contracts as to the availability of funds. Other provisions for contract management in this
86 Code must be followed if applicable to a particular contract.

87 (5)(E) **Threshold exceptions.** The professional service threshold and thresholds in
88 paragraphs (5)(A) and (5)(C) may be exceeded if the state court administrator gives
89 written authorization. A threshold for outside counsel or litigation-related services may be
90 exceeded with written authorization from the Council. All written authorizations must
91 include the reasons for exceeding the threshold.

92 **(6) Exceptions to standard procurement processes.**

93 (6)(A) **Written determination.** The chief procurement officer or a designee may award a
94 contract without engaging in a standard procurement process if the chief procurement
95 officer or designee determines in writing that a statutory exception or paragraph (6)(B)
96 applies.

97 (6)(B) **Impracticality.** Circumstances that make a standard procurement process
98 impractical and not in the best interest of the judiciary include:

99 (6)(B)(i) retaining outside legal counsel or litigation support services;

100 (6)(B)(ii) securing conference and convention facilities with unique or specialized
101 amenities, abilities, location, or services; or

102 (6)(B)(iii) other circumstances where strict compliance would compromise court
103 security, legal strategy, or confidentiality.

104 (6)(C) **Public notice.** With written authorization from the state court administrator, public
105 notice of the intent to award a contract without engaging in a standard procurement
106 process for purchases exceeding \$50,000 may be waived for the following
107 procurements:

108 (6)(C)(i) speakers or trainers with unique or proprietary presentations or training
109 materials;

110 (6)(C)(iv) circumstances set forth in paragraph (6)(B); or

111 (6)(C)(v) other circumstances as determined in writing by the state court
112 administrator or Council.

113 ~~(7)(D)~~ **Artificial divisions.** Procurement requirements ~~shall~~must not be artificially divided so
114 as to avoid the provisions of this rule.

115 (~~85~~)(E) State contracts. Court employees should check to see if items are available on state
116 contract before making a purchase ~~by using the State Purchasing website contract search page~~
117 ~~or contacting Court Purchasing. Contract Search Page~~
118 link: ~~<https://statecontracts.utah.gov/Home/Search>~~.
119 Effective: ~~September 13, 2022~~ May 18, 2026