

IN THE COURT OF APPEALS OF MARYLAND  
ADMINISTRATIVE ORDER ON  
PROCUREMENT BY THE JUDICIAL BRANCH

WHEREAS, the State Procurement Law, set forth in Division II of the State Finance and Procurement Article, does not apply to the Judicial Branch, as it is a separate branch of government; and

WHEREAS, an inherent power of the Judicial Branch is the power to procure goods and services for the operations necessary for the administration of justice; and

WHEREAS, the Judicial Branch created, pursuant to an Administrative Order issued on November 7, 2001, a Procurement Policy, which has been revised periodically, with the most recently updated version posted on the Judicial Branch's website; and

WHEREAS, the Judicial Branch strives to maintain a procurement and purchasing system of fairness, equity, economy, efficiency, integrity, and transparency; and

WHEREAS, on June 29, 2020, the Court of Appeals of Maryland adopted a new Chapter 900 of Title 16 of the Maryland Rules, with an effective date of August 1, 2020; and

WHEREAS, Rule 16-913(f) states, in part: "Inspection of judicial records in the form of procurement documents shall be governed exclusively by the Procurement Policy of the Judiciary approved by the Chief Judge of the Court of Appeals . . ."; and

WHEREAS, the Procurement Policy in effect at the time of the passage of Rule 16-913(f) did not describe those procurement documents that are, or are not, available for public inspection; and

WHEREAS, an updated Procurement Policy that seeks to effectuate Rule 16-913(f), as well as otherwise conform the Policy to best practices recognized since its last update, having been presented by the State Court Administrator with her recommendation for approval,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do this 18<sup>th</sup> day of August 2020, hereby order that:

- (a) *Definition.* In this Order, the term “Judicial Branch” means the Court of Appeals, Court of Special Appeals, District Court of Maryland, Clerks of the Circuit Courts, Administrative Office of the Courts, and Judicial Units; and
- (b) *Assignment of Responsibility.* The Department of Procurement, Contract & Grant Administration of the Administrative Office of the Courts shall be responsible for procurement and purchasing by the Judicial Branch, which includes maintaining and administering the Procurement Policy; and
- (c) *Policy Updates and Revisions.*
  - 1. As part of its duty to maintain and administer the Procurement Policy, the Department of Procurement, Contract & Grant Administration shall update and make revisions to the Procurement Policy from time to time as are appropriate to advance the Purposes below; including identifying which procurement documents are, or are not, available for public inspection, and shall submit to the State Court Administrator for review;
  - 2. Upon the State Court Administrator’s satisfaction with the draft, the State Court Administrator shall present the proposed draft for approval by the Chief Judge of the Court of Appeals;

3. The approved version of the Procurement Policy shall be posted on the Judicial Branch's website; and
- (d) *Purposes.* The purposes of the Procurement Policy include:
1. Providing for increased public confidence in the procedures followed in Judicial Branch procurement;
  2. Ensuring the fair and equitable treatment of all persons who deal with the procurement system of the Judicial Branch;
  3. Simplifying, clarifying, and modernizing the procedures governing procurement by the Judicial Branch;
  4. Permitting the continued development of procurement policies, procedures, and practices;
  5. Providing increased economy in Judicial Branch procurement activities, and maximizing to the fullest extent the purchasing power of the Judicial Branch;
  6. Providing safeguards for the maintenance by the Judicial Branch of a procurement system of quality and integrity;
  7. Fostering effective broad-based competition through support of the free enterprise system;
  8. Promoting openness of procurement records, subject only to limits that are reasonably necessary to: (i) protect the integrity of the procurement process and (ii) protect the privacy and security of those who deal with the procurement system of the Judicial Branch; and
  9. Promoting development of uniform procurement procedures.
- (e) The Procurement Policy dated August 18, 2020, as recommended by the State Court Administrator, shall be and hereby is approved; and

- (f) The *Administrative Order on Procurement by the Judiciary*, issued on November 7, 2001, shall be, and hereby is, rescinded, effective immediately.

/s/ Mary Ellen Barbera  
Mary Ellen Barbera  
Chief Judge  
Court of Appeals of Maryland

Filed: August 18, 2020

/s/ Suzanne C. Johnson  
Suzanne C. Johnson  
Clerk  
Court of Appeals of Maryland

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Suzanne Johnson  
2020-08-18  
10:19-04:00

Suzanne C. Johnson, Clerk

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Gregory Hilton, Clerk