



## **301 FW 5**

# ***Unauthorized Commitments***

Supersedes 301 FW 6 and  
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**5.1 What is the purpose of this chapter?** This chapter:

- A. Provides procedures for resolving unauthorized commitments, and
- B. Describes the officials responsible for ratifying unauthorized commitments.

**5.2 What is an unauthorized commitment?** An unauthorized commitment occurs when a Federal employee buys items without the authority to make the transaction or enters into an agreement for services without the authority to make the commitment. Two examples of unauthorized commitments are provided below.

- A. A Federal employee with purchase card authority of up to \$3,000 enters into a contract with a hotel for meeting space that costs \$4,300. This is an unauthorized commitment because the total cost of the meeting space exceeds the micro-purchase limit.
- B. A Federal employee authorizes the repair of Government property before obtaining an approved purchase order.

**5.3 What is the policy?**

- A. There are three categories of employees who are allowed to make acquisition commitments for the Service: employees who hold an active Contracting Officer's Appointment, employees authorized to use a purchase card, and appointed Ordering Officers. All other employees must not make acquisition commitments.
- B. The resolution of an unauthorized commitment is ratification. Ratification occurs when an authorized official approves the unauthorized commitment, allowing the Service to pay for the supplies received or services rendered. If an employee makes an unauthorized commitment, he/she must request a ratification of the action through his/her supervisor. If ratification does not occur, the employee may be financially liable for the purchase.

**5.4 What are the authorities for this chapter?** See [301 FW 1](#) for the authorities for all the chapters in Part 301. The following authorities are specific to unauthorized commitments:

- A. [Federal Acquisition Regulation \(FAR\) Subpart 1.6](#): Career Development, Contracting Authority, and Responsibilities.
- B. [Department of the Interior Acquisition Regulation \(DIAR\) Subpart 1401.602](#), Ratification of Unauthorized Commitments.

**5.5 Who is responsible for resolving unauthorized commitments?**

**A. The Assistant Director – Business Management and Operations (AD-BMO), as Head of the Contracting Activity** is the only Service official who may ratify unauthorized commitments above the simplified acquisition threshold (and only after the Office of the Solicitor concurs). (The current threshold is \$150,000 and is listed at [FAR 2.101](#).)

**B. Chiefs of the Contracting Office (CCO):** [DIAR Subpart 1402.101](#) defines the CCO as “the senior GS–1102 within a contracting office.” Within the Service, CCOs are the Chiefs of the Regional contracting offices. CCOs have the following responsibilities:

(1) Ratifying unauthorized commitments at or below the simplified acquisition threshold if ratification is in the best interest of the Government (the Chief, Contracting and Facilities Management (CFM) has this responsibility for the Headquarters office);

(2) Reviewing requests for ratification above the simplified acquisition threshold before sending them to the Chief, CFM and the AD-BMO; and

(3) Recommending to the AD-BMO whether he/she should ratify an unauthorized commitment.

**C. The Bureau Procurement Chief** (who is the Chief, CFM in Headquarters):

(1) May review and ratify unauthorized commitments made by a Regional contracting office, but only when they are below the simplified acquisition threshold, and

(2) Must obtain concurrence from the Office of the Solicitor before:

(a) Ratifying an unauthorized commitment that is above the micro-purchase level, and

(b) Requesting that the AD-BMO ratify an unauthorized commitment above the simplified acquisition threshold.

**D. Supervisors** are responsible for preparing a memorandum to the CCO requesting ratification of any unauthorized commitment made by an employee.

## **5.6 What is the process for requesting ratification?**

**A. The request memorandum.** The immediate supervisor of the employee who made the unauthorized commitment must send a memorandum requesting ratification to the CCO. The memorandum must include:

(1) Description of the circumstances of the acquisition and how the unauthorized commitment occurred,

(2) Description of efforts made by the employee to obtain appropriate authority from the Contracting Officer before making the unauthorized commitment,

(3) Purchase request with appropriate accounting data,

(4) Certification of receipt of goods or services,

(5) Invoice,

(6) Description of corrective measures taken by the supervisor or office to prevent future

violations, and

(7) Recommendation to ratify the unauthorized commitment.

**B. Actions at or below the simplified acquisition threshold.** For actions at or below the simplified acquisition threshold, the ratifying official must:

(1) Review the memorandum to ensure that all the factors in [FAR 1.602-3\(c\)](#) are met and that the Contracting Officer has provided a written determination of a fair and reasonable price;

(2) Seek concurrence from the Office of the Solicitor through a memorandum if the action exceeds the micro-purchase level (current threshold listed at [FAR 2.101](#)). The memorandum to the Office of the Solicitor must include:

(a) Description of the circumstances of the acquisition and how the commitment occurred,

(b) Determination that the price paid is fair and reasonable,

(c) Statements addressing each of the limiting factors in [FAR 1.602-3\(c\)](#),

(d) Description of the corrective measure(s) taken to prevent future violations, and

(e) Signature of the CCO recommending ratification.

(3) Maintain files and a summary of all ratification actions processed.

**C. Actions greater than the simplified acquisition threshold:** For actions greater than the simplified acquisition threshold:

(1) The CCO must prepare a memorandum to the AD-BMO through the appropriate Directorate member and the Chief, CFM. The memorandum must describe the reason for recommending the ratification and address all the factors in [FAR 1.602-3\(c\)](#).

(2) The Chief, CFM:

(a) Reviews the memorandum to ensure that the factors in [FAR 1.602-3\(c\)](#) are met and that the Contracting Officer has provided a written determination that the price paid was fair and reasonable;

(b) Investigates the unauthorized commitment as necessary;

(c) Seeks concurrence from the Solicitor's Office about ratification approval; and

(d) Sends a memorandum to the AD-BMO recommending ratification or rejection of ratification of the unauthorized commitment.

(3) The AD-BMO:

(a) Approves or disapproves the ratification; and

(b) Sends approved ratification and payment instructions to the appropriate personnel for

payment.

### **5.7 What happens if the official refuses to ratify an unauthorized commitment?**

**A.** The ratifying official may refuse to ratify an unauthorized commitment partially or completely when:

- (1) The circumstances of [FAR 1.602-3\(c\)](#) are not clearly demonstrated, and
- (2) The items or services are:
  - (a) Of marginal benefit to the Government,
  - (b) Unreasonably priced, or
  - (c) Not formally accepted or used by any Federal employees other than the purchaser.

**B.** The ratifying official must obtain legal advice from the Office of the Solicitor ([DIAR 1401.602\(c\)](#)) when refusing to ratify an unauthorized commitment. The purchaser may be required to personally pay unpaid amounts or reimburse the Government for the amount the Service paid the vendor. This situation may also be resolved by the claim procedure at the Government Accountability Office.

**C.** The ratifying official must refer situations involving fraud, misappropriation of Government funds or property, or ethical violations to the Office of the Inspector General for investigation.

### **5.8 What are the potential consequences for making an unauthorized commitment?**

Penalties for unauthorized commitments are listed in the Department's [Handbook on Charges and Penalty Selection for Disciplinary and Adverse Actions](#).

**A.** An employee responsible for making an unauthorized commitment may be subject to one or more of the following disciplinary actions (not all-inclusive):

- (1) Reprimand,
- (2) Personal responsibility for paying the costs of the commitment, and
- (3) Suspension or rescission of his/her Contracting Officer Appointment.

**B.** Supervisors should work with their servicing Human Resources office to determine appropriate disciplinary actions.

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