



United States Department of the Interior
OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

Washington, D.C. 20240



IN REPLY REFER TO:

National Policy Memorandum

Assistant Secretary - Indian Affairs
Deputy Assistant Secretary – Indian Affairs (Management)

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Title: Ratifications

1. Purpose

This memorandum provides guidance for all procurement and non-procurement personnel to ensure that Indian Affairs (IA) employees do not enter into an unauthorized commitment. An unauthorized commitment occurs when an employee orders services or supplies from a vendor/contractor without a contract.

2. Scope

This policy applies to all IA headquarters, field and program staff under the authority of the Assistant Secretary – Indian Affairs (AS-IA), including the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE.)

3. Policy

It is the policy of Indian Affairs to comply with federal regulations and policy and direction from the Department of the Interior (DOI) and the Office of Management and Budget (OMB) to ensure adequate internal controls measures and reviews are established and implemented. IA has implemented these procedures to ensure proper internal controls in compliance with OMB Circular A123.

4. Procedures

The Federal Acquisition Regulation (FAR) at 1.602-3 defines an unauthorized commitment as "an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government." Unauthorized commitments should be a rare event. It puts the IA employee at risk for payment of the services

or supplies ordered and/or disciplinary action. In addition, it puts the Vendor/Contractor at risk for non-payment of services rendered or supplies ordered.

A. Definitions

1. **Head of the contracting activity (HCA)** is defined as the assistant or associate administrative head of each bureau and office who has overall responsibility for managing contracting. The authority of the HCA may be redelegated to the BPC unless otherwise specified.

2. **Bureau procurement chief (BPC)** is defined as the senior GS-1102 official in a bureau or office. His/her authority may be delegated, unless specified otherwise, to the CCO. If the BPC is also the CO for an action requiring approval of the BPC, then approval shall be at the HCA level.

3. **Chief of the contracting office (CCO)** is defined as the senior GS-1102 within a contracting office unless otherwise specified by bureau/office regulation. If the CCO is also the Contracting Officer (CO) for an action requiring approval of the CCO, then approval shall be at a level above the CCO in accordance with bureau procedures.

B. Ratifications

Ratification is defined as the act of approving an unauthorized commitment by an official who has the authority to do so. The ratification of an unauthorized commitment is a time consuming process. Until the unauthorized commitment is ratified, the vendor will not be paid and the person who placed the order is personally liable for the action.

IA Contract Specialists are responsible for making the determination if an unauthorized commitment is ratifiable. This is accomplished by determining if the unauthorized commitment meets all of the seven prerequisites at FAR 1.602-3 (c):

1. Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;
2. The ratifying official has the authority to enter into a contractual commitment;
3. The resulting contract would otherwise have been proper if made by an appropriate contracting officer;
4. The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable;
5. The contracting officer recommends payment and legal counsel concurs in the recommendation, unless agency procedures expressly do not require such concurrence;

6. Funds are available and were available at the time the unauthorized commitment was made; and;

7. The ratification is in accordance with any other limitations prescribed under agency procedures.

Cases that are not ratifiable under subsection 1.602-3(c) may be subject to resolution as recommended by the Government Accountability Office under its claim procedure (GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 4, Chapter 2) or as authorized by FAR Subpart 50.1. Legal advice should be obtained in these cases.

In any event, the Contract Specialist must make an expedient determination of whether an unauthorized commitment is ratifiable or not. If the action is ratifiable, the Contract Specialist must follow the ratification process. If the action is not ratifiable, the Contract Specialist must immediately notify the Vendor/Contractor and the Program Office in writing stating why the action is not ratifiable.

C. Ratification Process

If the unauthorized commitment is ratifiable, the following process should be followed:

1. Collect Statement of Facts from the Program Office.
2. Obtain Invoices from the Program Office
3. Obtain an approved PR from the Program Office via FBMS
4. Prepare the Determinations and Findings
5. Prepare an authorized commitment letter to the Supervisor of the individual that entered into the unauthorized commitment. Put the unauthorized commitment letter on a PDF file and send via e-mail to the Supervisor of the individual who made the unauthorized commitment. Place documented proof that the Supervisor was issued the unauthorized commitment letter in the ratification package.
6. For ratifications that exceed the micro-purchase threshold, review the entire ratification package for completeness and forward the entire package to the local Solicitor for review and signature preferably on PDF file via e-mail.
7. If the ratification does not exceed the micro-purchase threshold, the Supervisory Contract Specialist may sign the ratification.
8. If the ratification exceeds the micro-purchase threshold, after signature is obtained from the Solicitors Office, the CCO will review and approve the ratification package as long as the HCA has delegated the ratification authority to the CCO. If the CCO is also the CO for the action requiring approval of the CCO, then approval shall be at a level above the CCO in

accordance with Bureau procedures.

9. Once all signatures have been obtained, the contract document may be issued, distributed and payment processed.

10. Once the contract document has been issued, submit a copy of the entire package, including the Purchase Order to the Office of Acquisition Management, Central Office.

5. Authorities


A. Statutes and Regulations

- 1) Federal Acquisition Regulation (FAR).
[FAR Subpart 8](#)
- 2) 48 CFR, Federal Acquisition Regulations System
- 3) Department of the Interior Acquisition Regulations (DIAR)
- 4) Departmental Manuals
- 5) Executive Orders

B. Guidance.

- 1) Department of the Interior Acquisition Policy Release (DIAPR)
- 2) Department of the Interior Guidance (DIG)
- 3) Indian Affairs Acquisition Guidance Release (IA-AGR)

6. Approval



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4/14/2014
Date