

2901.602-3 Ratification of unauthorized commitments.

(a) If the HCA agrees that the commitment appears to be without valid authorization, the Division of Acquisition Management Services must be notified by the HCA in accordance with the procedures outlined in this section.

(b) *Ratifications - Thresholds.* The Department of Labor may only ratify acquisitions that were intended to fulfill a bona fide need and otherwise could have been authorized when made. If the action to be ratified is not approved, then the employee who authorized the work may be liable for the entire cost of the action. Requests received by contracting officers for ratification of commitments made by personnel lacking contracting authority must be processed as follows:

Dollar threshold	Must be approved by (Ratifying official)	Steps to be followed
Below the micro-purchase threshold	Head of the Contracting Office	1 through 5 & 7.
Between the micropurchase threshold and the Simplified Acquisition Threshold	Head of Contracting Activity	1 through 5 & 7.
Above the Simplified Acquisition Threshold	Assistant Secretary for Administration and Management, after review by the Procurement Review Board	1 through 7.

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Step - Instruction

(1) The individual is placed on notice by the contracting officer, in writing, that the purchase may be inappropriate because he did not have a purchasing request, funding, or authority to obligate the Government to make an expenditure of funds.

(i) The individual who made the unauthorized contractual commitment shall furnish the contracting officer all records and documents concerning the commitment and a complete written statement of the facts, including, but not limited to a statement as to why the acquisition office was not used, a description of work to be performed or products to be furnished, an estimated or agreed-upon contract price, citation of appropriation available, and a statement as to whether the contractor has commenced performance.

(ii) In the absence of such an individual, the head of the applicable office will be responsible for providing such information, including an explanation of why the individual who made the unauthorized commitment is unavailable to provide this information.

(2) The individual who made the unauthorized commitment or the head of the applicable office, as appropriate, shall provide a determination and finding (See FAR 1.704) to the contracting officer indicating that:

(i) 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;

(ii) A procurement request and/or accompanying documentation including a statement signed by the individual that explains why normal acquisition procedures were not followed, explains why the source was selected, lists other sources considered, describes the work, and estimates or states the agreed upon price. (If the DOL employee who made the unauthorized commitment is no longer available, appropriate program personnel must provide the information described in this paragraph); and

(iii) Funds are available and were available at the time of the unauthorized commitment.

(3) The contracting officer reviewing the unauthorized commitment shall determine whether the price is fair and reasonable and if payment is recommended to the ratifying official. (The contracting officer may rely upon written documentation submitted by managing staff above the individual who made the unauthorized commitment, in making his/her determination.)

(4) Legal review is required before ratification by the ratifying official.

(5) The ratifying official shall make an affirmative determination and finding that:

(i) The resulting purchase order or contract would otherwise have been proper if made by an appropriate contracting officer.

(ii) The contracting officer reviewing the unauthorized commitment has determined that the price is fair and reasonable and payment is recommended.

(6) For cases over the simplified acquisition threshold, all documentation for steps (1) through (5) must be forwarded to the Director, Division of Acquisition Management Services, for submission to the Procurement Review Board. However, the ratifying official is responsible for directing the receipt and acceptance for all products and deliverables received by the Government as a result of an unauthorized commitment.

(7) The supervisor of the individual who made the unauthorized commitment shall prepare a corrective action plan to preclude further unauthorized commitments (e.g., ethics, purchase card, or administrative procedures training, or other appropriate action). The ratifying official may approve the corrective action plan. The individual shall report to the ratifying official in writing when the corrective action has been initiated and again after it has been fully implemented.

Parent topic: Subpart 2901.6 - Career Development, Contracting Authority, and Responsibilities

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Note: DOL procurement policies require review by the Procurement Review Board of advisory and assistance services acquisitions above \$50,000 for competitive acquisitions and at any dollar amount for noncompetitive acquisitions, and waivers for contracts with employees and recently separated employees. Therefore, review by the PRB is required for unauthorized obligations at these lower thresholds.