

1.602-3 Ratification of unauthorized commitments.

(a) Definitions.

Ratification, as used in this subsection, means the act of approving an *unauthorized commitment* by an official who has the authority to do so.

Unauthorized commitment, as used in this subsection, means 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.

(b) Policy.

(1) Agencies *should* take positive action to preclude, to the maximum extent possible, the need for *ratification* actions. Although procedures are provided in this section for use in those cases where the *ratification* of an *unauthorized commitment* is necessary, these procedures *may* not be used in a manner that encourages such commitments being made by Government personnel.

(2) Subject to the limitations in paragraph (c) of this subsection, the *head of the contracting activity*, unless a higher level official is designated by the agency, *may* ratify an *unauthorized commitment*.

(3) The *ratification* authority in paragraph (b)(2) of this subsection *may* be delegated in accordance with agency procedures, but in no case *shall* the authority be delegated below the level of chief of the *contracting office*.

(4) Agencies *should* process *unauthorized commitments* using the *ratification* authority of this subsection instead of referring such actions to the Government Accountability Office for resolution. (See [1.602-3\(d\)](#).)

(5) *Unauthorized commitments* that would involve *claims* subject to resolution under [41 U.S.C. chapter 71](#), Contract Disputes, *should* be processed in accordance with [subpart 33.2](#), Disputes and Appeals.

(c) *Limitations*. The authority in paragraph (b)(2) of this subsection *may* be exercised only when-

(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.

(d) *Nonratifiable commitments*. Cases that are not ratifiable under this subsection *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.

Parent topic: 1.602 Contracting officers.