

Ratification of Unauthorized Commitments



Caveat Emptor (“Buyer” Beware)

Army Contracting: One Community Serving Our Soldiers, Serving Our Nation

Definition

- Unauthorized commitments (UC) are agreements entered into on behalf of the U.S. Government by unauthorized personnel or in an unauthorized manner
- These commitments are not binding
- U.S. Government funds may be committed only by a duly appointed Contracting Officer, Grants Officer, Ordering Officer, or any individual approved to use the International Merchant Purchase Authorization Card (IMPAC), acting within the scope of their individual authority

Who Cares About UCs And Why?

- ▶ Your Commander or Activity Director
 - ◆ He/she may have to support the ratification
 - ✘ This may possibly cause embarrassment to your Commander or Activity Director and organization
- ▶ Local Contractors and Vendors
 - ◆ They don't receive timely payment
 - ✘ This may do harm to the U.S. Government's reputation as a business partner
- ▶ You, if you commit a UC
 - ◆ You could be held financially liable
 - ◆ You could face disciplinary action

What Happens When A UC Occurs?

- ▶ When an unauthorized commitment occurs:
 - ◆ A lengthy ratification and approval process is required to properly obligate funds and process payment to the vendor
 - ◆ Vendors affected by the payment delays may be reluctant to conduct further business with the U.S. Government
 - ◆ The individual who made the unauthorized commitment could face disciplinary action and be held personally and financially liable

Who Has To Approve a Ratification Of A UC?

- ▶ \$10,000 or less = Chief of the Contracting Office

- ▶ \$100,000 or less = Principal Assistant Responsible for Contracting (PARC)

- ▶ In Excess of \$100,000 = Head of the Contracting Activity (HCA)

- ▶ **Note:** There is no guarantee the approving authority will ratify the Unauthorized commitment. Certain conditions must exist for approval.

Documentation Required for a Request for Ratification of Unauthorized Commitment



- ▶ The individual making the UC must send to their commander or senior staff officer designated for this purpose –
 - ◆ A signed ratification statement documenting the circumstances, the reason normal contracting procedures were not followed, what bonafide Government requirement necessitated the commitment, the benefit received and its value;
 - ◆ An original claim for payment (invoice); and,
 - ◆ An original receiving report denoting the receipt and acceptance of the supplies furnished or the services rendered

Documentation Required for a Request for Ratification of Unauthorized Commitment



- ▶ If the commander or senior staff officer designated concurs that the commitment should be ratified, the following documentation must be provided:
 - ◆ A funded purchase request with a complete purchase description; and,
 - ◆ An endorsement that verifies the accuracy and completeness of the documentation and describes the measures taken to prevent a recurrence of UC's, including any disciplinary action to be taken
- ▶ All documents must be forwarded to the Chief of the Contracting Office. Upon receipt and review of the complete file, the individual responsible for approving the ratification may do so, if it is considered to be in the best interest of the Government, or they may direct other disposition

What Can I Do To Avoid Committing A UC?

- ▶ Don't let the Chain of Command pressure you to commit the Government to a certain supply or service
- ▶ Don't let vendors pressure you through sales tactics and product trials
- ▶ When conducting market research, be certain you make no commitments
- ▶ Plan ahead for the supplies and services you need
- ▶ Contact your servicing contracting office if you believe you may be involved in a UC
- ▶ Think before you “buy”

References



- ▶ The ratification of an unauthorized commitment is addressed in the following regulations and policy:
 - ✘ Federal Acquisition Regulation (FAR) at 1.602-3
 - ✘ Army Federal Acquisition Regulation Supplement (AFARS) at 5101.602-3 and 5101.602-3-90
 - ✘ U.S. Army Medical Research Acquisition Activity (USAMRAA) within the USAMRAA Policy 07-08