

14-2. Unauthorized Commitments and Ratification

a. An unauthorized commitment (UAC) is defined by FAR 1.602-3(a) 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.” See AFARS 5101.602-3-90. The only individuals who can bind the Government are warranted contracting officers, ordering officials, and cardholders acting within the limits of their delegated authority. The individual making a UAC can be held personally liable to the vendor for the total cost of supplies or services obtained until the extent of the Government’s liability is determined. The primary factor in determining whether a purchase is considered a UAC is contracting authority. CHs have this authority from their appointment letter. When an individual without contracting authority initiates a purchase, it is considered a UAC.

b. GPC purchases must be approved by the BO prior to purchase and initiated by the CH. The designated CH is the only person authorized to make purchases with a GPC. FAR 1.602-3(b) requires agencies to take positive action to preclude the need for ratification actions. Although procedures are available in cases where it is necessary to ratify a UAC, these procedures may not be used in a manner that encourages UACs being made by Government personnel.

c. Payment for goods or services accepted in the absence of a UAC may be made only through the ratification process. Payment cannot be made unless a Contracting Officer has awarded a contract or an authorized GPC holder acting within his or her delegation of authority has ordered the item(s).

d. Examples of Unauthorized Commitments.

1) The Army receives services/supplies in which a properly executed funding document and an authorized procurement method (e.g., contract, BPA, or GPC) was not established prior to the Government ordering the services/supplies.

2) Someone other than the CH contacts a vendor and asks them to provide supplies or perform work, without the CH’s knowledge and without prior approval of the billing official.

3) An individual without contracting authority orders supplies or services.

4) CH orders supplies or services exceeding their procurement authority.

5) A vendor mistakes a request for information as an order, ships the item, the receiver does not realize it is an improper order and accepts the item rather than reject and return the item.

6) A contractor continues to perform a service contract or provide leased/rented equipment after the expiration date of the contract. This situation frequently occurs on yearly services/maintenance/lease-type contracts for which there is a continuing need.

7) An individual makes a commitment for continuation of services or delivery of supplies under an expired contract, purchase order, or delivery order.

8) An individual makes a commitment which exceeds the call order limit on a blanket purchase agreement.

9) A person who does not have delegated authority makes a commitment under a BPA.

10) An individual makes a commitment which continues contract services over and above the original scope and dollar amount.

e. Common Reasons for UACs.

- 1) Failure to plan procurement needs far enough in advance to utilize normal contracting procedures.
- 2) Encountering emergency program requirements and not believing there is enough time to go through normal procurement procedures.
- 3) Failure to expeditiously review, approve, and transmit procurement requests to the Procurement Office.
- 4) Failure to perform extensive market research before taking an action.
- 5) Government officials not understanding the parameters of their actual authority or lack thereof.
- 6) Government official not understanding that agreeing to an option presented by a contractor could be an unauthorized action if it creates more work or expense.

f. Ratification Process. AFARS 5101.602-3-90 outlines the Army process for ratifying an unauthorized commitment. Unauthorized commitments may be paid by the Army through ratification. Ratification means the act of approving an unauthorized commitment by an official who has the authority to do so. The ratification process determines whether the Army or the initiator will pay the invoice. The individual who made an unauthorized commitment can be held personally liable to the vendor or the Government for the total cost of supplies or services obtained until the extent of the Government's liability is determined. The Government accepts liability through ratification. When an A/OPC identifies a potential unauthorized commitment, the A/OPC must contact the local contracting office to initiate the ratification process. The ratification authority may be delegated in accordance with agency procedures, but in no case will the authority be delegated below the level of Chief of the Contracting office, or equivalent.

g. Payment of Properly Ratified Claims. A contracting officer can only ratify the unauthorized commitment if it would have been proper to enter into a contract before the commitment was made. After the unauthorized commitment is ratified, the payment of the ratified claim may be made through an appropriate contract action (e.g., award of a contract, modification to a contract, purchase order, GPC). After ratification, the GPC may be used to satisfy the commitment if the amount of payment is within the cardholder's authority; if the payment is made in the same fiscal year as the commitment; and if the commitment itself is properly chargeable to the current fiscal year. If prior fiscal year funds are required to satisfy the commitment, a purchase order, or other formal contractual instrument, payable through Government vendor payment channels, will be required. If the outstanding charges have already been paid in error with the GPC prior to the discovery of the UAC, the UAC is being processed for ratification only and the supporting documentation is loaded in the bank's EAS.

h. Non-Ratifiable Commitments. An improper unauthorized commitment is not ratifiable because it involves violation of a substantive legal requirement or because the commitment exceeded the Contracting Officer's authority.

- 1) Actions prohibited by law or otherwise improper are considered non-ratifiable.
- 2) The Government is liable for the reasonable value of any goods or services received by the

Government. In such cases, the contracting officer should document that although the UAC cannot be ratified, the vendor is entitled to fair and reasonable payment for goods and services accepted (not necessarily the same amount as the UAC). The contracting officer should resolve the UAC in a different manner by contacting the mission area finance office.

3) If it is determined the non-ratifiable commitment should not be paid (e.g., the Government did not receive and accept services) and/or the vendor seeks review of a disallowance (in full or in part), the Contracting Officer should seek legal advice.

4) FAR 1-602-3(d). Non-ratifiable 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 50.1. Legal advice should be obtained in these cases.

Parent topic: [Chapter 14 - Prohibited and Restricted Purchases](#)