



ADMINISTRATIVE INSTRUCTION 119

RATIFICATION OF UNAUTHORIZED COMMITMENTS

Originating Component: Office of the Director of Administration and Management

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Incorporates and Cancels: Washington Headquarters Services Operating Instruction 50-1, "Ratification of Unauthorized Commitments," August 15, 2005

Approved by: Barbara A. Westgate, Director, Washington Headquarters Services
Change 1 (Administrative)
Approved by: Christopher R. Choate, Chief, Directives Division

Purpose: In accordance with the authority in DoD Directive 5110.04 and DoD Instruction 5025.01, this issuance:

- Implements the policy in Subpart 1.602-3 of the Federal Acquisition Regulation (FAR).
- Provides procedures for ratifying unauthorized commitments made by personnel serviced by the Washington Headquarters Services (WHS) Acquisition Directorate (AD).
- Prescribes SD Form 834, "Disposition of Unauthorized Commitment," to facilitate the ratification process.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Office of the Deputy Chief Management Officer, the Defense Agencies, and the DoD Field Activities that are serviced by the WHS AD as the Single Enterprise Contracting Office (SECO), referred to in this issuance as the “requiring activities.”

1.2. POLICY. Pursuant to Subpart 1.602-3(b) of the FAR, when an unauthorized commitment is discovered, WHS will evaluate the underlying circumstances leading to the unauthorized commitment and, if appropriate, ratify the action for payment.

1.3. SUMMARY OF CHANGE 1. This change is administrative and, in accordance with the March 21, 2022 WHS Memorandum:

a. Reassigns the Director of Administration, Office of the Deputy Chief Management Officer of the Department of Defense responsibilities and duties to the Director of Administration and Management (DA&M) in accordance with Section 901 of Public 116-283, which eliminated the position of the Deputy Chief Management Officer of the Department of Defense effective January 1, 2021, and the January 11, 2021 Deputy Secretary of Defense Memoranda, which implemented Public Law 116-283 and reestablished the DA&M.

b. Updates organizational titles and references for accuracy.

SECTION 2: RESPONSIBILITIES

2.1. DIRECTOR, WHS AD. Under the authority, direction, and control of the Director, WHS, the Director, WHS AD, as the head of the SECO:

- a. Reviews all ratification packages and approves or disapproves all ratification requests.
- b. Ensures ratifications are processed in a timely manner in accordance with the FAR and this issuance.

2.2. WHS COMPTROLLER/WHS FINANCIAL MANAGEMENT DIRECTORATE (FMD) CHIEF FINANCIAL EXECUTIVE. Under the authority, direction, and control of the Director, WHS, the WHS Comptroller/WHS FMD Chief Financial Executive provides funding to the requiring activity, if appropriate, in accordance with appropriation law and DoD Manual 7000.14-R.

2.3. REQUIRING ACTIVITY HEADS. The requiring activity heads ensure their employees comply with this issuance and take positive action to preclude the need for ratification actions, to the maximum extent possible.

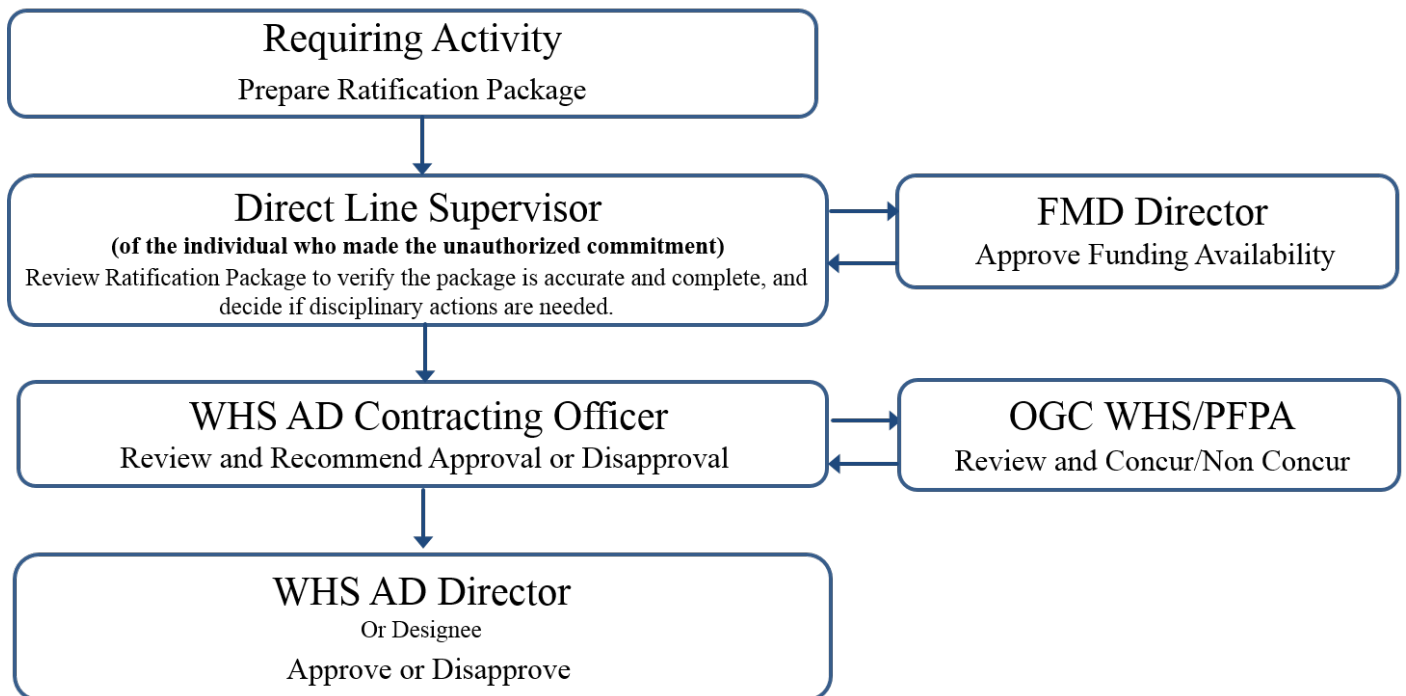
SECTION 3: RATIFICATION PROCEDURES

3.1. PREPARING A RATIFICATION PACKAGE. When a requiring activity either determines, or is informed by the contracting office, that one of its employees created an unauthorized commitment, the activity must request that the government ratify the unauthorized commitment.

a. To request ratification, the requiring activity must assemble a ratification package for review by the WHS FMD, the WHS AD, and the Office of the General Counsel, WHS and Pentagon Force Protection Agency (OGC WHS/PFPA).

b. Ratifications are approved by the Director, WHS AD. The ratification authority may not be delegated lower than the level of the chief of the contracting office, and the ratifying official must have the authority to enter into contractual commitments. The appropriate contracting officer, within the SECO, must be notified of all ratification packages. See the Figure for a depiction of the process.

Figure 1. Routing of Unauthorized Commitments



c. The individual in the requiring activity who made the unauthorized commitment will prepare a ratification package for submission to WHS AD, which includes:

- (1) SD Form 834 with Section 1 completed.

(2) A signed statement providing the facts and circumstances of the unauthorized commitment, including:

- (a) An explanation describing why normal acquisition procedures were not followed.
- (b) A description of the bona fide government need that caused the unauthorized commitment.
- (c) An explanation of the benefit the government received and the value of the benefit. This includes the date(s) the supplies or services were received along with all receiving reports.
- (d) Any other pertinent facts.
- (e) A certification that the statement is accurate and complete.

(3) All relevant documentation (e.g., receipts, invoices, receiving reports, correspondence, and emails).

d. The direct line supervisor of the individual who made the unauthorized commitment will:

- (1) Review the package.
- (2) Verify the individual's statement for accuracy and completeness.
- (3) Address, in detail:
 - (a) The specific measures taken by the organization to prevent the recurrence of unauthorized commitments.
 - (b) The specific disciplinary action taken or recommended based on the circumstances of the unauthorized commitment. If the supervisor does not believe disciplinary action is appropriate, he or she must affirmatively state so and provide justification.
- (4) Prepare a purchase description and request for funding for the ratifying action.
- (5) Complete Section 2 of the SD Form 834, and route the entire ratification package to the FMD as part of the request for funding action.

3.2. FMD. FMD will:

- a. Determine whether the requiring activity had available funds at the time of the unauthorized commitment.
- b. Determine whether the requiring activity has available funds for ratification of the unauthorized commitment.

c. If the reviews under Paragraphs 3.2. a. and b. of this issuance indicate funds were and are available, process the DD Form 1262, “Administrative Service Request,” DD Form 448, “Military Interdepartmental Purchase Request,” or other appropriate funding documentation.

d. Complete Section 3 of the SD Form 834, and route the ratification package with the certified DD Form 1262, DD Form 448, or other appropriate funding documentation (if appropriate) to the WHS AD.

3.3. WHS AD CONTRACTING OFFICER. The WHS AD contracting officer will:

a. Ensure the adequacy of all facts, records, and documents in the ratification package.

b. Review the package in accordance with Subpart 1.602-3(c) of the FAR and determine whether ratification is appropriate and in the best interest of the government.

c. Recommend approval or disapproval of the ratification package by completing Section 4 of the SD Form 834, and route the package to OGC WHS/PFPA for legal review in accordance with Subpart 1.602-3(c)(5) of the FAR.

d. Once OGC WHS/PFPA documents its review in Section 5 of the SD Form 834, route the ratification package to the Director, WHS AD (or designee) for final approval.

3.4. DIRECTOR, WHS AD. The Director, WHS AD (or designee), upon receipt of the ratification package, will:

a. Determine that the ratification meets the limitations cited in Subpart 1.602-3(c) of the FAR and that the ratification is appropriate and in the best interest of the government; and,

b. If the ratification is approved by the Director, WHS AD, complete Section 6 of the SD Form 834, and coordinate and approve the contractual action for the ratification pursuant to the FAR and the Defense FAR Supplement; or,

c. If the ratification is not approved by the Director, WHS AD, prepare a statement describing the appropriate disposition action (e.g., referring action for disposition to the Government Accountability Office for resolution under its claim procedures or as authorized by Subpart 50.1 of the FAR), complete Section 6 of the SD Form 834, and route the complete ratification package to the requiring activity.

3.5. RECORD RETENTION. Requiring activities, WHS FMD, and WHS AD will retain all records pertaining to the ratification in accordance with Item 010 of the National Archives General Records Schedule 1.1, the FAR, the Defense FAR Supplement, DoDI 5015.02, and Administrative Instruction 15.

GLOSSARY

G.1. ACRONYMS.

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|--------------|--|
| AD | Acquisition Directorate |
| DA&M | Director of Administration and Management |
| FAR | Federal Acquisition Regulation |
| FMD | Financial Management Directorate |
| OGC WHS/PFPA | Office of the General Counsel, Washington Headquarters Services and Pentagon Force Protection Agency |
| SECO | Single Enterprise Contracting Office |
| WHS | Washington Headquarters Services |

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purposes of this issuance.

ratification. Defined in Subpart 1.602-3 of the FAR.

requiring activity. OSD, the Office of the DA&M, the Defense Agencies, and the DoD Field Activities that are serviced by the WHS AD as the SECO. The requiring activity is the most familiar with the technical requirements of an acquisition.

requiring activity heads. Senior Executive Service, flag or general officer, the commander or director of the requiring activity, who has authority over personnel and material requiring support.

unauthorized commitment. Defined in Subpart 1.602-3 of the FAR.

REFERENCES

- Administrative Instruction 15, “OSD Records and Information Management Program,” May 3, 2013
- Defense Federal Acquisition Regulation Supplement, current edition¹
- Deputy Secretary of Defense Memorandum, “Disestablishment of the Chief Management Officer of the DoD and Realignment of Functions and Responsibilities,” January 11, 2021
- Deputy Secretary of Defense Memorandum, “Re-establishment of the Assistant to the Secretary of Defense for Intelligence Oversight and the Director of Administration and Management,” January 11, 2021
- DoD Directive 5110.04, “Washington Headquarters Services (WHS),” March 27, 2013
- DoD Instruction 5015.02, “DoD Records Management Program,” February 24, 2015
- DoD Instruction 5025.01, “DoD Issuances Program,” August 1, 2016
- DoD Manual 7000.14-R, “Department of Defense Financial Management Regulation (DoD FMR),” current edition
- Federal Acquisition Regulation, current edition²
- National Archives General Records Schedule 1.1, “Financial Management and Reporting Records,” current edition
- Public Law 116-283, “William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021,” January 1, 2021
- Washington Headquarters Services Memorandum, “Approval of Administrative Changes to Office of the Director of Administration and Management (ODA&M) DoD Issuances, Phase 2,” March 21, 2022

¹ Current official version maintained at <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>

² Current official version maintained at <https://acquisition.gov/far/index.html>