

**82d CONTRACTING SQUADRON  
UNAUTHORIZED  
COMMITMENTS  
AND  
RATIFICATIONS  
GUIDE**



**82dCONTRACTINGSQUADRON 206 J Ave, Bldg 1662  
SHEPPARD AIR FORCE BASE, TEXAS 76311  
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## PREFACE

This guide was developed to better serve you, our customer. As a service organization, the 82d Contracting Squadron strives to provide the highest quality, best-value contracting support possible--we need your help to make that happen. The information contained in the pages to follow address an extremely important topic to all of us--**unauthorized commitments**.

Just what is an unauthorized commitment? Unauthorized commitments are requests and/or receipt of commercial items or services by a government representative who did not have the **authority** to either bind the government or commit appropriated funds. Only an appointed **contracting officer** has the authority to obligate government funds and contractually bind the government for supplies and services here at Sheppard AFB.

Serious legal, disciplinary, and personal liability actions can result from such unauthorized commitments. By definition, every member of an organization is a government representative, which means every member is susceptible to binding the government and committing funds without the benefit of a properly executed contract document.

Please take the time to read this guide, and we further recommend its use as a training tool for all members within your unit. Commanders and unit resource advisors should become very familiar with the contents of this guide, and retain it as part of their continuity book. Feel free to contact the contracting squadron should you have any questions or comments.

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## SECTION 1

### TERMS AND DEFINITIONS

1. **Federal Acquisition Regulation (FAR):** Directive that applies to all contracting activities at the federal level, not just the Air Force, and is mandated by congressional statutes through public law. The 82d Contracting Squadron, as a contracting activity, must adhere to FAR procedures as supplemented by DOD, AF, and AETC.
2. **Anti-Deficiency Act Violation:** The act, by a government representative, of obtaining an item or service without first securing sufficient funds and a contractual document. An Anti-Deficiency Act violation results in a high level investigation and reporting to senior Air Force leaders. Serious personal liability, disciplinary action, and criminal prosecution may result from such unauthorized acts.
3. **Contracting Officer:** The only person authorized, as duly appointed by higher authority, to enter into, administer, or terminate contracts and other contractual arrangements that bind the government through the obligation of appropriated and nonappropriated funds. Contracting Officers may bind the government only to the extent of the authority delegated to them. The Contracting Officer ensures that no contractual arrangement is entered into unless all the requirements of law, executive orders, regulations, all other applicable procedures, including clearances and approvals have been met, and that sufficient funds are available for obligation.
4. **Unauthorized Commitment:** An agreement that may not legally bind the government solely because the representative who made it lacked the authority to enter into such an agreement on behalf of the government. Serious personal financial liability and disciplinary action may result from such unauthorized commitment of government funds.
5. **Government Representative:** Any federal employee (military or civil service) acting as an agent of the Air Force (government). Member has no authority to solicit, negotiate, or enter into contractual arrangements or commit/obligate appropriated or non-appropriated funds unless delegated to do so through a duly appointed contracting officer warrant.
6. **Ratification:** The contracting officer's act of accepting the results of an unauthorized commitment and paying for the contractor's work. Ratification, by itself does not relieve the individual from responsibility for the unauthorized action.
7. **Ratifying Official:** Individual designated with authority to ratify an unauthorized commitment. The 82d Contracting Squadron Commander possesses ratification authority for actions valued at \$25,000 or less.

## SECTION 2

### HOW DOES AN UNAUTHORIZED COMMITMENT HAPPEN?

Picture this scenario:

*The construction contract for building renovation is well under way and the carpet installation contractor is doing a good job-just like the project calls for. It just so happens you work in the room where carpet is being laid, and you noticed the past few days that a section of the hallway down from your newly carpeted room has the old tile with no carpet covering. Thinking it would add just the right touch to the office to carpet that area, too, you mention that desire to the carpet installer. "Carpets-R-Us" contractor just so happens to have enough carpet on hand to complete the additional work. The added installation is done and it looks great--and didn't cost that much more after all.*

What's wrong with this picture? Simply put, it's a clear case of an unauthorized commitment of government funds. You see the renovation contract didn't call for carpet to be installed in that section of the hallway because it leads to a high traffic exterior facility entrance. And by the way, "Carpets-R-Us" simply followed directions from you, a government representative, and has forwarded a bill for payment covering the additional carpet and installation costs. Guess who could end up paying the bill for the extra carpet?

Here's another situation:

*Due to a change in requirements for computer equipment, your organization equipment custodian contacts the vendor, who has a contract to provide new computers for your organization, and requests an increase to the number specified on the contract. The vendor proceeds to ship the additional quantity requested and then submits an invoice for payment. The invoice exceeds the amount specified on the contract and finance forwards the invoice to the base contracting squadron for clarification. The vendor is contacted and confirms that a government representative increased the quantity from the original order.*

Although a valid requirement necessitated the additional equipment, the base contracting squadron was not notified of the intent to increase the number of computers required, and had not received the additional funds to properly modify the contract prior to delivery. There may not be any funds for this purchase. Guess who could end up paying the bill?

## **SECTION 3**

### **HOW CAN I AVOID AN UNAUTHORIZED COMMITMENT?**

In most cases, a simple phone call to the base contracting squadron prior to calling the vendor or contractor would have avoided placing yourself in an unauthorized commitment situation. If you encounter a situation that requires emergency contracting support during other than normal duty hours, a contracting officer can be reached by calling the Contracting Unit Program Manager at 676-5177. The bottom line: If in doubt, contact the experts in contracting first. Section 7 provides you with a 82d Contracting Squadron point of contact listing to assist you in answering questions.

The key to ensuring no unauthorized commitments occur is active involvement by the commanders, resource advisors, and supervisors. ALL members must be made aware of what is an unauthorized commitment, who to call when contracting support is needed, that only a warranted contracting officer has the authority to bind the government, and the serious personal financial liability and disciplinary ramifications that may result from committing such an unauthorized act. The serious nature of such actions cannot be overstated! This topic must be a vital part of your unit's training and education program.

An unauthorized commitment may be ratified only when specific conditions are met. Stated another way, the government representative who committed the unauthorized act may be held personally liable for all or a portion of the costs incurred in obtaining the commercial item or service, as well as any associated disciplinary action deemed appropriate by the commander.

The following sections list the conditions under which an unauthorized commitment may be legally ratified, what steps are involved in processing an unauthorized commitment for ratification, and some DO's and DON'Ts worth remembering.

## **SECTION 4**

### **WHAT CONDITIONS MUST BE MET TO RATIFY AN UNAUTHORIZED COMMITMENT?**

All of the following conditions must exist to consider ratification of an unauthorized commitment:

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 the performance of the unauthorized commitment;
2. The ratifying official has the authority to enter into a contractual commitment at the time it was made and still has the authority to do so. The 82d Contracting Squadron commander is the ratifying authority for amounts not exceeding \$25,000. HQ AETC/LGC is the ratifying authority for amounts over \$25,000;
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 (82 amW/JA) concurs in the recommendation;
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.

There are substantial man-hour and administrative costs involved with processing a single unauthorized commitment; man-hours and dollars that can certainly be wiser spent--not to mention individual embarrassment and commander visibility. Personal financial liability, and being on the receiving end of disciplinary admonishment should serve as effective deterrents. Additional costs associated with delayed invoice payment to a contractor or vendor may result due to the time required to properly document and process an unauthorized commitment.

## SECTION 5

### WHAT STEPS ARE INVOLVED IN PROCESSING A RATIFICATION?

Normally, it becomes known that a potential unauthorized commitment has occurred when you receive an invoice from a commercial contractor demanding payment for delivery of an item or performance of a service. The Contracting Squadron or the Comptroller Flight may also receive such an invoice. After a little research, it can quickly be determined whether or not a contracting officer was ever involved in the process, or if a contractual document/order was ever placed for that item or service. When the commitment occurs without the benefit of contracting officer authority, the following steps must be completed to determine the circumstances surrounding the potential unauthorized commitment, and to determine if the action can be ratified, thereby approving payment using government funds:

1. The individual who committed the unauthorized act prepares a statement of all pertinent facts of the transaction accompanied by a file of all relevant documents and records. The statement must also include a description of action taken to prevent recurrence of the unauthorized act.
2. The individual's statement and supporting documentation is forwarded to the squadron commander having jurisdiction over the individual involved. The responsible squadron commander reviews the individual's statement of facts and supporting documentation.
3. The squadron commander forwards the individual's statement and supporting documentation to the group commander under a separate cover letter, recommending or not recommending ratification. This letter must also include a description of actions placed into effect to prevent recurrence.
4. The group commander will review the statement and file and if the commander concurs with processing as a ratification, forwards the complete package to the contracting officer under cover of a letter recommending ratification. This letter must also identify what disciplinary action was taken, or justify why none was considered appropriate.
5. The contracting officer will determine the adequacy of the record and obtain further documentation if necessary. The contracting officer then prepares a statement of facts summarizing those unauthorized commitments approved for ratification, to include an analysis of the prices involved to support fair and reasonable determination. The contracting officer will also obtain a legal review and a recommendation from the local staff judge advocate on how the matter should be processed.
6. For those unauthorized commitments determined by the ratifying official, under 82 AMW/JA advisement, to not be ratifiable, a letter will be issued to the responsible squadron commander stating that government funds shall not be used to pay for the amount of the



item/service. The responsible individual(s) will be held personally liable for direct cost settlement with the contractor/vendor.

7. Per HQ AETC/LGC instructions, a copy of the contracting officer's statement of facts on each locally approved ratification (\$25,000 or less) must be forwarded to HQ AETC/LGCQ after ratification is complete.

8. The 82 CONS/CC will send the complete file on proposed ratification's valued over \$25,000 to HQ AETC/LGCQ for possible ratification processing.

NOTE: A second unauthorized commitment made by the same organization will not automatically be approved for ratification. Only extenuating circumstances surrounding a second unauthorized commitment will be considered.

## SECTION 6

### DOs and DON'Ts

You can avoid finding yourself in the compromising and embarrassing unauthorized commitment situation by following these simple reminders:

#### **DO:**

1. Remember, first and foremost, that a warranted contracting officer is the only person authorized to bind the government for commercial items or services.
2. Coordinate all contract requirements with your supervisor, equipment custodian/facility manager, unit cost center manager, and/or resource advisor to ensure sufficient funds are available.
3. Use the Government Purchase Card (GPC), through approved and trained unit cardholders, to purchase small dollar (\$2,500 or less) items and services, (\$2,000 for construction requirements). Ensure the AF Form 4009, Government Purchase Card Fund Cite Authorization, has sufficient certified funds to cover the amount of purchase prior to the cardholder placing a call to a vendor or making a purchase.
4. Obtain all required base agency coordination's for the proposed contracting requirement.
5. Prepare a proper AF Form 9, Request for Purchase, to include a complete description of the requirement, sufficient funding and certified by finance. NOTE: The AF Form 9 and any required supporting documentation must be received in contracting PRIOR to the date/time the contract item or service is needed, whether urgent or routine in nature.
6. Plan all required contracting support needs to ensure the requirement and funding reach the 82d Contracting Squadron prior to the need date, and in sufficient time to allow for proper contracting procedures. Coordination with responsible base agencies is critical for avoiding unauthorized commitments.
7. Pay particular attention to annual recurring contract services (i.e., equipment preventive maintenance/rental; cable TV services; operating permits, annual subscriptions; etc.). Ensure renewal requirements and funding are planned for and submitted to the 82d Contracting Squadron far enough in advance to establish follow-on annual recurring services.
8. The 82d Contracting Squadron is willing to provide specific training for you or your unit on the topic of "Unauthorized Commitments and Ratifications," or any other contracting related subject.
9. Make sure that your selected vendor accepts the GPC before he comes to the base and performs the service.

**DON'T:**

1. Violate any of the "Dos" identified above.
2. Put yourself, and your organization, in an unauthorized commitment situation. Your friendly contracting officer is ready to support your unit requirements, but needs help from you through advance planning of your mission requirements to allow for proper and timely contracting support.
3. Ask contractors/vendors to perform work, increase quantities, submit quotes, schedule events or engage in any other action that would put you in jeopardy of being responsible for an unauthorized commitment.

**DON'T MESS AROUND WITH UNAUTHORIZED COMMITMENTS!**

**CALL CONTRACTING BEFORE YOU ORDER THAT ITEM OR SERVICE**

**PLAN AHEAD AND PASS THE WORD.**

## SECTION 7

### 82D CONTRACTING SQUADRON DIRECTORY

#### MANAGEMENT

COMMANDER	676-5200
DIRECTOR OF BUSINESS OPERATIONS	676-4138
SUPERINTENDENT	676-5198
SECRETARY	676-2663
FAX	676-7829

<b>BASE SPECIALIZED ACQUISITION FLIGHT (LGCA)</b>	676-5180
FAX	676-7652

<b>INFRASTRUCTURE ACQUISITION FLIGHT (LGCB)</b>	676-5185
FAX	676-3784

<b>CONTRACT ADMINISTRATION (LGCN)</b>	676-5197
FAX	676-7829

#### PLANS AND PROGRAMS FLIGHT (LGCP)

FLIGHT CHIEF	676-5183
AF FORMS 9 (ABSS)	676-2606
GPC COORDINATOR	676-6888
QUALITY ASSURANCE PROGRAM COORDINATOR	676-1115