

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

# Notice

N(30)822-1

March 17, 1998

Chief Counsel's  
Procedures for Ratifying

**Subject:** Unauthorized Commitments      **Cancellation Date:** September 13, 1998

CCDM (30)822, Procedures for Procurement Transactions Involving Contractual Obligations, is hereby amended with the following new paragraph:

(6) Chief Counsel Procedures for Seeking Ratification:

The following is in accordance with Federal Acquisition Regulations Subpart 1.6 and the Internal Revenue Service Requisition Procedures (IRM Exhibit 1(14)20-1).

(a) It is the responsibility of all employees who become aware of a potential unauthorized procurement to promptly report the matter to their manager, who must provide such information to the appropriate Associate Chief Counsel or Regional Counsel, as soon as practicable.

(b) Due to the seriousness of unauthorized procurements, the Associate Chief Counsel and Regional Counsel will be the executives designated to approve proceeding with the processing of unauthorized procurements. This level of involvement is appropriate so as to ensure the procurement process is working properly within Chief Counsel offices and that there is full awareness of procurement problems which occur. The Associate Chief Counsel and Regional Counsel will, upon receiving notification of an unauthorized procurement, ensure that the procedures which follow are carried out.

(c) Once the Associate Chief Counsel or Regional Counsel is satisfied that an unauthorized commitment has occurred, as defined in CCDM (30)822(4), an initial memorandum documenting the unauthorized procurement and seeking a determination from the servicing procurement office on appropriate disposition will be prepared. The memorandum shall define the factual circumstances in order to give the procurement office a basis to evaluate the situation.

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(d) If the determination is that the ratification procedure is appropriate, then a case file should be opened by the office with the unauthorized commitment.

(e) The case file will contain:

A funded requisition form and copies of relevant procurement documents such as invoices, contracts, and orders.

A statement of facts concerning the unauthorized commitment.

A statement of corrective action taken to preclude a recurrence of unauthorized obligations.

A justification for the Government to ratify the unauthorized commitment in lieu of requiring settlement with the contractor by the individual(s) who made the purchase.

Any information available, price lists, catalogs, etc., to help the contracting officer with the price reasonableness determination.

(f) The completed case file will be forwarded by the concerned Associate Chief Counsel or Regional Counsel to the servicing procurement office, by memorandum, requesting the procurement office approve the ratification. Concurrently, an information copy of this memorandum will be sent to the Associate Chief Counsel (Finance and Management) who will be tracking these actions for the Office as a whole.

(g) Pursuant to FAR 1.602-3, the procurement office will make a determination as to the appropriate disposition of the reported potential unauthorized commitment. The procurement office will make one of the following determinations:

o An unauthorized commitment did not occur, that is the fact scenario did not meet the definition of an unauthorized commitment (e.g., constructive amendment to an existing contract).

o An unauthorized commitment did occur; the commitment was not in the interest of the Government and the employee responsible for making the commitment is liable for payment.

o An unauthorized commitment did occur; the timing and circumstances are such that the vendor will need to file a claim against the Government to seek payment.

o An unauthorized commitment did occur and ratification procedures should be initiated.

