601.602-3-70 Procedures.

(a)

(1) The person who made the unauthorized commitment shall submit all records and documents concerning the unauthorized commitment to the contracting officer assigned the ratification action. That person shall provide a complete written, signed statement of the facts, including why normal acquisition procedures were not followed; a statement justifying a sole source acquisition (Justification for Other Than Full and Open Competition) if the unauthorized commitment exceeds $100,000; why and how the vendor was selected; a list of other sources considered; a description of work or products; a statement regarding the status of performance; an estimated or agreed price; certified funding citations; a statement as to why he/she should not be personally liable for the cost, e.g., a public purpose was served and no personal benefit was received; a statement as to whether the individual has ever been responsible for any other unauthorized commitments in the Department of State; and, a statement as to the number of unauthorized commitments processed by the responsible office within the last three calendar years and the circumstances surrounding each of these actions.

(2) When the person who made the unauthorized contractual commitment is no longer available to attest to the circumstances of the unauthorized commitment, an officer from the responsible office shall accomplish the requirements of this paragraph; the statement shall identify the individual responsible for the unauthorized commitment.

(3) In addition, a cognizant management official from the office that employed the individual who made the unauthorized commitment at the time the unauthorized commitment was made shall provide a statement detailing actions that he/she will take to ensure that such commitments will not occur again under the same or similar circumstances.

(4) This statement shall be cleared by the Executive Director of the Bureau that employs (or employed) the person who made the unauthorized commitment.

(b) The contracting officer assigned the ratification action shall prepare and execute a recommendation to the ratifying official. The contracting officer shall either recommend that the ratifying official approve and ratify the unauthorized commitment; or, disapprove the ratification of the unauthorized commitment.

(1) The recommendation shall include the facts and circumstances of the unauthorized commitment; the information prescribed in FAR 1.602–3(c)(1) and (c)(3) through (6); and a recommendation to the ratifying official as to whether the unauthorized commitment should be ratified.

(2) Following the signature of the contracting officer, the recommendation shall include a statement that the ratifying official could have granted authority to enter into a contractual commitment at the time it was made and still has the authority to do so; that the ratifying official hereby ratifies (or disapproves) the unauthorized commitment in the amount specified; and a date and signature block for the ratifying official.

(c) The information required in paragraph (b)

(1) of this section shall be supported by factual findings included or referenced in the recommendation.

(d) The contracting officer shall submit the complete file to the ratifying official. For actions exceeding $1,000, the file shall be submitted through the head of the contracting activity to the Procurement Executive.

(e) Upon receipt and review of the complete file, if the ratifying official ratifies the unauthorized commitment, the file shall be returned, through the head of the contracting activity if the action exceeds $1,000, to the contracting officer for issuance of the appropriate contractual document(s). If the request for ratification is not justified, the ratifying official shall return the request to the head of the contracting activity (if over $1,000) or to the contracting officer (if under $1,000) with a written explanation for the decision and a recommendation for disposition of the action.

Parent topic: Subpart 601.6—Career Development, Contracting Authority, and Responsibilities