

NATIONAL WEATHER SERVICE INSTRUCTION 70-206

AUGUST 13, 2021

Financial Management

Financial Management Policy, NWSPD 70-2

UNAUTHORIZED COMMITMENTS

NOTICE: This publication is available at: <http://www.nws.noaa.gov/directives/>.

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Certified by: W/CFO/CAO (D. McClure)

Type of Issuance: Routine

SUMMARY OF REVISIONS: This directive supersedes directive NWSI 70-206 “*Unauthorized Commitments*” dated April 25, 2018.

Changes include:

- Noting the NWS Final Approving Official as the Assistant Administrator.
- The inclusion of additional Emergency contacts.
- Moved Emergency Contacts to separate Google Sheets in order to prevent revisions of directive word document just to amend contact list.
- Moved NWS Funds Certifiers to separate google sheet and updated the information on that sheet with proper contacts.

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Chief Financial Officer/
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Date

Unauthorized Commitments

Table of Contents	Page
1. Purpose	2
2. Scope	2
3. Responsibilities and Procedures	2
3.1 Unauthorized Commitments.....	2
3.2 Avoiding Unauthorized Commitments.....	2
3.3 Emergencies.....	3
3.4 Responsibilities in the Event of an Unauthorized Commitment.....	3
Appendices:	
APPENDIX A - Emergency Contacts, Eastern Acquisition Division.....	A-1
APPENDIX B - Emergency Contacts, Western Acquisition Division.....	B-1
APPENDIX C - NWS Funds Certifiers.....	C-1
APPENDIX D - Memorandum Template.....	D-1

1. Purpose

The purpose of this policy is to set forth the requirements to implement measures to avoid unauthorized procurement actions and prescribe the ratification process.

2. Scope

This procedure applies to all National Oceanic and Atmospheric Administration (NOAA) National Weather Service (NWS) personnel; specifically, personnel with procurement authorization.

3. Responsibilities and Procedures

3.1 Unauthorized Commitments

Unauthorized commitments occur when Department of Commerce (DOC) accepts goods or services in the absence of an enforceable contract entered by an individual with delegated contracting authority. Payment for goods or services accepted in the absence of an authorized commitment may be made only through the ratification process.

3.2 Avoiding Unauthorized Commitments

To avoid an unauthorized commitment, an approved existing obligating vehicle must be in place before the start of any work or request for delivery of supplies or services.

- The obligating vehicle should either be an existing purchase/task order, bankcard (see purchase card directive), an existing contract, Blanket Purchase Agreement (BPA), or

an existing indefinite delivery/indefinite quantity (IDIQ) contract.

- The scope of the obligating vehicle must completely define the work to be accomplished and the award must financially cover all work defined in the order.
- The obligating vehicle cannot be used to increase the scope unless a modification has been executed to redefine new work.

3.3 Emergencies

When emergencies arise and a contract action is needed that cannot be done by an NWS DPA or purchase cardholder, call a warranted NOAA Contracting Officer (CO) from within Appendix A or Appendix B. The CO and the NWS client will discuss the emergent issue and determine sources capable of addressing the requirement. The CO will seek a quote or quotes from the vendor(s) that are current in the System for Award Management (SAM). Once an estimate is in hand, the CO will contact an NWS funds certifier from within Appendix C to attain funds availability. When funds are secured, the CO authorizes the vendor to proceed with delivery of item or service at the price agreed upon (may be on a firm fixed price basis or time and materials basis depending on the circumstances). Funds availability must be provided in writing (e-mail) by the funds certifier before the CO will authorize the acquisition with the selected vendor. A statement as shown below, the same or similar, to the following will suffice:

I hereby certify that funds in the amount of \$_____ are available and will be provided the next business day for the following emergency acquisition:

Once funds availability has been received in writing, the emergency acquisition may be authorized verbally or in writing as the CO deems appropriate.

3.4 Responsibilities in the Event of an Unauthorized Commitment

In the event an unauthorized commitment occurs, the following information is required to process a ratification request (refer to the Commerce Acquisition Manual (CAM) 1301.602 and FAR 1.602-3):

The basic procedure is:

- The responsible FMC must prepare a memorandum describing the events and details that led to the unauthorized commitment as well as identifying the responsible party for the unauthorized commitment.
- The FMC must use the prescribed memorandum format in Appendix D from the Assistant Administrator to the NOAA AGO representative, address each bullet, and attach required documentation.

- If the unauthorized commitment is less than **\$500,000**, the memorandum should be addressed to one of the following (see the [NOAA AGO Client Matrix](#) to determine the correct recipient):

- Eastern Acquisition Division (EAD) Head Contracting Officer
- Western Acquisition Division (WAD) Head Contracting Officer

- If the unauthorized commitment exceeds **\$500,000**, the memorandum should be addressed to the NOAA AGO Director.

- The unsigned memorandum is then forwarded directly to OCFO for review.

APPENDIX A - Emergency Contacts, Eastern Acquisition Division

(NWS DPAs should be contacted first in the event of an emergency for up to \$25K)- Eastern Acquisition Division (EAD):

Please click [here](#) if you would like to view the Emergency Contacts List for the Eastern Acquisition Divisions (EAD).

APPENDIX B - Emergency Contacts, Western Acquisition Division

**(NWS DPAs should be contacted first in the event of an emergency for up to \$25K)-
Western Acquisition Division (WAD):**

Please click [here](#) if you would like to view the Emergency Contacts List for the Western Acquisition Divisions (WAD).

APPENDIX C - NWS Funds Certifiers

Please click [here](#) if you would like to view the NWS Funds Certifiers list.

APPENDIX D - Memorandum Template

Letterhead for this memorandum can be accessed through the [Insider's Google Drive](#). Ensure that this letterhead is downloaded to Microsoft for use. Do **not** request access to edit the document within Google.

MEMORANDUM FOR: Name of Appropriate NOAA AGO representative

FROM: Louis W. Uccellini (do not include his title)

SUBJECT: Request for Ratification of Unauthorized Commitment

1. Facts and Circumstances

Circumstances surrounding the unauthorized commitment should be listed in this section (i.e., how it happened).

- Include a statement as to whether or not supplies or services have been provided by the vendor and accepted by the Government.
- Facts must be entered in bulleted format, start each bullet with the date of the event (if date is available), keeping facts to a minimum.
 - Related invoices - include a description of work performed.
 - Explanation of how the vendor was selected.
 - Funds availability at the time of the unauthorized commitment.
 - List of officials who knew of the action and permitted the unauthorized commitment.
 - Whether or not the approving official has authority to enter a contractual commitment
 - Actions taken or recommendations made to prevent a recurrence.
 - Any attempts to involve procurement officials (if no attempt was made, state reason why).
 - Ratification compliance with Department of Commerce policies and procedures.
 - Additional information, if applicable.

2. Limitations

This section must ensure the pertinent points from the Limitations section in CAM 1301.602, Section 3 (3.2.1), and FAR 1.602-3 are addressed. Statements addressing each of the following limitations must be included in the memorandum:

- a. 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 performance of the unauthorized commitment.
- b. The approving official has the authority to enter into a contractual commitment.
- c. The resulting contract would otherwise have been proper if made by an appropriate contracting officer.
- d. The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable.
- e. The contracting officer recommends payment and legal counsel concurs in the recommendation.
- f. Funds are available and were available at the time the unauthorized commitment was made.

The memorandum will have the following attached to ensure all information is available for AGO.

- A copy of the most current invoice.
- A copy of the C.Request authorizing funding.
- Statement(s) of work.

FMCs may add to the basic routing as needed and inform staff of additional steps when necessary.