

CIRCULAR

DATE: October 20, 2011

UNAUTHORIZED PROCUREMENT COMMITMENTS

Review Date: October 20, 2014

1.0 PURPOSE

The purpose of this circular is to inform Bureau of Engraving and Printing (BEP/Bureau) personnel of the requirement to obtain proper authorization before entering into binding procurement commitments, e.g., purchase orders, blanket purchasing agreement calls, and contracts between the Bureau and other organizations.

2.0 SCOPE

The provisions of this circular are applicable to all Bureau personnel.

3.0 SUPERSESSION

This circular supersedes Circular No. 70-06.7, "Unauthorized Procurement Commitments," dated October 13, 1989.

4.0 REFERENCES

- 4.1 Government Services Administration, [Federal Acquisition Regulation](#), July 1, 2011, Volume 1, Section 1.602-3 "Selection, Appointments, and Termination of Appointments for Contracting Officers"
- 4.2 Department of the Treasury Acquisitions Regulation (DTAR), [Section 1001.602-3](#) Ratification of unauthorized commitments, dated August 2011
- 4.3 Manual No. 70-06.8, "Acquisition Planning Policy," date TBD at signing
- 4.4 31 United States Code (USC) § 1341, [Anti-Deficiency Act](#)

5.0 BACKGROUND

Government agencies have experienced numerous problems and incurred substantial costs due to unauthorized personnel making commitments and agreements on behalf of the Federal Government without obtaining or having the proper authority to bind the Government for such actions.

6.0 DEFINITIONS

Unauthorized Procurement Commitment – A commitment or agreement (to include "letters of intent," arrangements for "free" vendor services or use of equipment with the promise that a contract or order will be awarded) for supplies or services, that is not binding, because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.

7.0 POLICY

- 7.1 BEP personnel must actively involve authorized personnel from the Office of Acquisition (OA) prior to engaging in any procurement-related activities or

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- discussions. It is Bureau policy to procure supplies and services exclusively through proper channels, as described in Manual No. 70-06.8, "Acquisition Planning Policy." If a Bureau employee becomes aware of goods and services not procured through this process, he/she should report it immediately to the Office of Acquisition.
- 7.2 OA personnel must act in accordance with Federal Acquisition Regulation (FAR) and Department of the Treasury Acquisition Regulation (DTAR).
 - 7.3 Only a properly appointed Contracting Officer (CO) is authorized to enter into, administer or terminate contracts, and make related determinations and findings. Bureau designated Contracting Officer's Technical Representatives (COTRs), Contract Specialists, and other key procurement officials must consult with the responsible CO prior to engaging in any procurement-related actions on behalf of the BEP. COTRs and BEP personnel should contact the CO when unsure about actions they are authorized to take.
 - 7.3.1 Personnel not authorized by the OA must not enter into unauthorized procurement commitments or take unauthorized procurement-related actions that suggest and/or have the effect of committing or binding BEP to any procurement related agreements.
 - 7.4 To avoid the possibility of entering into an unauthorized procurement commitment, all BEP personnel shall adhere to acquisition guidelines found in Manual No. 70-06.8.
 - 7.4.1 When an unauthorized procurement commitment is identified, the Chief, OA, will be notified, and action to resolve the situation will be in accordance with the FAR and DTAR.
 - 7.5 BEP staff must actively involve authorized personnel from OA prior to engaging in any procurement-related activities or discussions.
 - 7.6 Procurement actions must not begin until a requisition is approved and funds are made available.
 - 7.6.1 The Office of Financial Management is responsible for designating representatives to prepare requisitions, confirming the availability of funds, and collaborating with the end user.
 - 7.6.2 Once funding availability is received, the OA assumes full responsibility for the procurement action, which includes placing a call, issuing an order or awarding a contract.
 - 7.6.3 Failure to follow these steps may violate sections of the [Anti-Deficiency Act](#).
 - 7.6.4 BEP employees who do not comply with the provisions of this circular may be subject to personal financial liability for any unauthorized financial commitment, along with the possibility of disciplinary action, to include dismissal. Additionally, violations of the Anti-Deficiency Act carry the possibility of fines and incarceration.

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- 7.7 OA will maintain case files on all unauthorized procurement commitments above the micro-purchase threshold or as designated by the Chief, OA.
- 7.8 OA will maintain records relating to the number of Bureau ratifications including approved and rejected ratification actions.

8.0 OFFICE OF PRIMARY RESPONSIBILITY

Office of Acquisition

<SIGNED>
Larry R. Felix
Director