

Date: May 3, 2013

From: Deputy Senior Procurement Executive

Subj: Class Deviation from VA Acquisition Regulation 801.602-3 Ratification of Unauthorized Commitments

To: Head Contracting Activities

1. **PURPOSE:** To approve a class deviation, in accordance with the Federal Acquisition Regulation (FAR) 1.404 Class deviations and Department of Veterans Affairs Acquisition Regulation (VAAR) 801.404 Class deviations, to deviate from VAAR 801.602-3 Ratification of unauthorized commitments.
2. **VA Acquisition Regulation (VAAR) Sections Impacted:** VAAR 801.602-3(b)(1)(2)(3)(i)(ii)(iii)
3. **Effective Date:** Immediately.
4. **Expiration Date:** Effective until incorporated into the revised VAAR and VA Acquisition Manual (VAAM).
5. **Background:**

Current VAAR Policy: VAAR 801.602-3(b) states that a contracting officer must not ratify unauthorized commitments made by other VA personnel or by another contracting officer who lacks authority without prior approval as specified in paragraphs (b)(1) through (b)(3) of this section. The specified approval authorities may not be re-delegated.

(1) At field facilities, for supplies, services (except leases of real property), and construction, the approving authority for unauthorized commitments made by staff assigned to a field facility is the HCA.

(2) For VA Central Office (VACO) organizations, for supplies, services (except leases of real property), and construction, the approving authorities for unauthorized commitments made by staff assigned to the Administrations are the respective chief financial officers of the Administrations concerned. The approving authority for unauthorized commitments made by staff assigned to any other organization within VACO is the Deputy Assistant Secretary for Acquisition and Materiel Management.

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(3) For unauthorized commitments for leasehold interest in real property, the approving authority is:

(i) The Director, Office of Construction and Facilities Management, for unauthorized commitments for 1-5,000 square feet of space or for 1-100 parking spaces costing less than \$50,000 per annum.

(ii) The Under Secretary for Health for unauthorized commitments for 5,001-20,000 square feet of space or for more than 100 parking spaces costing less than \$100,000 per annum.

(iii) The Deputy Secretary for 20,001 square feet of space and above or for more than 100 parking spaces costing more than \$100,000 per annum.

6. Need for Deviation: On April 16, 2012, a class deviation from the VA Acquisition Regulation (VAAR) Part 801.304 was issued due to organizational and procurement functions realignment. This organizational realignment conflicts with the VAAR 801.602-3 Ratification of unauthorized commitments, as presently written, since organizational titles and positions have changed. Therefore, it is necessary to issue a class deviation to the VAAR 801.602-3 to: (1) change the ratification authority from the Deputy Assistant Secretary (DAS) for Acquisition and Materiel Management to the Head of Contracting Activities (HCAs), (2) clearly identify the HCAs as the ratification officials for all unauthorized commitments in accordance with FAR 1.602-3(b)(2), and (3) rescind ratification authority from the "chief financial officers of the Administrations" as presently delineated in VAAR 801.602-3(b)(2) to comply with FAR 1.602-3(b)(3), which states that ratification authority may be delegated in accordance with agency procedures, but in **no** case **shall** the authority be delegated below the level of chief of the contracting office.

7. Attachment: VA Deviation from VAAR 801.602-3(b)(1)(2)(3)(i)(ii)(iii) Determination and Findings (D&F)

/s/C. Ford Head III

Attachment

**Class Deviation from the VA Acquisition Regulation (VAAR)
801.602-3(b)(1)(2)(3)(i)(ii)(iii)**

Findings

On April 16, 2012, a class deviation from the VA Acquisition Regulation (VAAR) Part 801.304 Department control and compliance procedures (VAIQ 7164546) was issued due to organizational and procurement functions realignment. The class deviation aligned the Deputy Senior Procurement Executive (DSPE) position directly under the Senior Procurement Executive (SPE), since the Associate Deputy Assistant Secretary (DAS) for Procurement Policy, Systems, and Oversight directly supports the DAS for Acquisition and Logistics.

This organizational realignment conflicts with the VAAR 801.602-3 Ratification of unauthorized commitments, as presently written, since organizational titles and positions have changed.

Therefore, it is necessary to issue a class deviation to the VAAR 801.602-3 Ratification of unauthorized commitments to:

- (1) change the ratification authority from the Deputy Assistant Secretary (DAS) for Acquisition and Materiel Management to the Head of Contracting Activities (HCAs),
- (2) clearly identify the Head of Contracting Activities (HCAs) as the ratification officials for all unauthorized commitments in accordance with FAR 1.602-3(b)(2), and
- (3) rescind ratification authority from the “chief financial officers of the Administrations” as presently delineated in VAAR 801.602-3(b)(2) to comply with FAR 1.602-3(b)(3), which states that ratification authority may be delegated in accordance with agency procedures, but in **no** case **shall** the authority be delegated below the level of chief of the contracting office.

VAAR 801.404 Class deviation states the authority to authorize class deviations from the FAR and VAAR is delegated to the SPE and is further delegated to the DSPE. The DSPE may authorize class deviations from the FAR and VAAR when a class deviation is in the best interest of the Government. The DSPE must comply with the provisions of FAR 1.404 through the SPE.

**Class Deviation from the VA Acquisition Regulation (VAAR)
801.602-3(b)(1)(2)(3)(i)(ii)(iii)**

Determination

In accordance with FAR 1.404 and VA Acquisition Regulation (VAAR) 801.404, I hereby issued a class deviation to the VAAR 801.602-3(b)(1)(2)(3)(i)(ii)(iii) and delegate, without further re-delegation, to the Head of Contracting Activities (HCAs) the authority to ratify all unauthorized commitments in accordance with FAR 1.602-3(b)(2) and rescind ratification authority from the “chief financial officers of the Administrations” as presently delineated in VAAR 801.602-3(b)(2).

This class deviation is effective until incorporated into the revised VAAR and VA Acquisition Manual (VAAM).

/s/C. Ford Heard
Deputy Senior Procurement Executive

5/3/2013

Date