

University of the District of Columbia

Title: Unauthorized Procurements and Ratification Policy	President's approval: 04/28/2010
Related Policies and Procedures: UDC Procurement Rules (8 DCMR § 3000 <i>et seq.</i> UDC PASS Approver Policy	

I. Unauthorized Procurements

1. Only University Contracting Officers are authorized to enter into contracts, terminate contracts or contractually bind the University for the procurement of supplies, services, or construction. A contracting officer may bind the University only to the extent of their written delegated authority by the Chief Contracting Officer. Any contract or procurement for supplies, services, or construction entered into or conducted by an individual other than a University Contracting Officer shall be considered an unauthorized procurement. 8 DCMR § 3001.5.

Examples of unauthorized procurements include, but are not limited to, (i) a contract signed with a vendor by any employee or person other than a duly appointed Contracting Officer; (ii) instructing a vendor to begin work, without a valid contract and/or Purchase Order in place; (iii) informing a vendor that the vendor has been awarded a contract or will be engaged to deliver goods or perform services, without a valid contract and/or Purchase order in place.

2. Any employee responsible for originating an unauthorized procurement shall be subject to sanctions in accordance with Section III of this policy.

3. An unauthorized procurement may be ratified at the sole discretion of the University if (a) such ratification is in the best interest of the University; and (b) such ratification can be accomplished as a procurement conducted in accordance with the UDC Procurement Rules. 8 DCMR § 3001.6(a).

4. No obligation arising from an unauthorized procurement may be satisfied by the University unless it is ratified, except as the result of a judgment or settlement agreement.

II. Procedure for Ratification of Unauthorized Procurements

1. An unauthorized procurement shall be deemed ratified by the University only if it satisfies the requirements of this Section II.

2. For a ratification to be approved, each accompanying form listed in Section IV must be completed as follows: (i) the Ratification Request shall be fully completed by the appropriate Vice President or Dean and forwarded to the Office of Contracting and Procurement; (ii) the

Ratification Funds Certification shall be fully completed by the Office of Finance and forwarded to the Office of Contracting and Procurement; (iii) the Contracting Officer Determination and Finding Statement shall be fully completed by the Office of Contracting and Procurement and forwarded to the Managing Director of Finance; (iv) the Legal Certification for Ratification shall be completed by the Office of General Counsel and forwarded to the Managing Director of Finance.

3. The ratification of any unauthorized procurement requires **both** the recommendation of the Chief Contracting Officer, as contained in the Contracting Officer's Determination and Findings Statement, as well as the approval of the Managing Director of Finance, as contained in the Approval of Ratification Request form. The approval of the Managing Director of Finance on the Approval of Ratification Request form shall be the final action to approve the ratification of an unauthorized procurement.

4. Each form must bear the Ratification Case Number assigned by the Office of Contracting and Procurement.

5. The approval of any ratification by the University shall be contingent upon the execution by the University and vendor of a Settlement Agreement approved by the Office of General Counsel, unless the General Counsel determines in writing that such an agreement is not necessary under the circumstances.

III. Employee Responsibility and Sanctions for Unauthorized Procurements

1. Notwithstanding any provision of this Section III, an employee who enters into an unauthorized procurement that is not ratified may be personally responsible for any obligation to the vendor(s). *See 8 DCMR § 3001.6(c).*

2. The sanctions enumerated in Subsection III.3. may be applied regardless of whether a ratification occurs.

3. An employee or employees who originates or enters into an unauthorized procurement shall be subject to the following sanctions and/or corrective actions:

a. *Informal Sanctions—First Offense.* The employee or employees shall be required to attend a follow-up and training meeting with the Chief Contracting Officer or designee. PASS access of the employee or employees shall be suspended until training is completed. In addition, the employee or employees shall be given a written warning from the Chief Contracting Officer.

b. *Informal Sanctions—Second Offense.* The PASS access of the employee or employees shall be suspended for not less than sixty (60) days. In addition, if any sanctioned employee has approver authority in PASS, such approver authority shall be reduced by one monetary level. In addition, the employee or employees shall be required to attend a further follow-up and training meeting with the Chief Contracting Officer.

c. *Formal Sanctions—Third Offense or More.* The employee or employees shall be subjected to formal adverse action by the Office of Human Resources. In addition, the

Chief Contracting Officer shall promptly report to the Internal Auditor when any employee incurs three or more offenses.

d. *Formal Sanctions—Unauthorized Procurements over \$25,000.* No informal sanctions shall be available for unauthorized procurements in excess of twenty-five thousand dollars (\$25,000). Instead, the employee or employees shall be referred directly to the Office of Human Resources for formal adverse action.

4. No sanction shall be applied in respect of any unauthorized procurement if the appropriate Vice President or Dean determines, with the concurrence of the Managing Director of Finance, that it is in the best interest of the University to waive such sanction.

IV. Accompanying Forms

1. Ratification Request;
2. Ratification Funds Certification;
3. Contracting Officer Determination and Findings Statement;
4. Legal Certification for Ratification;
5. Approval of Ratification Request;
6. Settlement Agreement and Release.

History/Revision Dates

Origination Date: April 28, 2010 (OGC)

Last Amended Date:

Next Review Date: