



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION
PSC BOX 8003
CHERRY POINT, NC 28533-0003

AirStaO 4200.1
SUSR1
21 Aug 06

AIR STATION ORDER 4200.1

From: Commanding Officer, Marine Corps Air Station, Cherry Point
To: Distribution List

Subj: UNAUTHORIZED COMMITMENTS AND COMMUNICATIONS WITH
CONTRACTORS

Ref: (a) Federal Acquisition Regulations (FAR) 1.602-3
(b) Marine Corps Acquisition Procedures Supplement (MAPS)
1.602-3

Encl: (1) Format for Submission of Unauthorized Commitment Claims
(2) Format for First Endorsement of Unauthorized Commitment
Claims

1. Situation. Military and Civilian personnel, without delegated authority, are prohibited from informally contracting and receiving materials or services directly from commercial suppliers. Under all circumstances, such actions are in direct violation of the policies and procedures set forth in the references and thereby constitute an unauthorized commitment.

2. Cancellation. ABO 4200.2B.

3. Mission

a. To publish command policy regarding oral or written contractual commitments made by Government personnel other than the duly appointed Contracting Officer.

b. To caution other personnel not to make statements or take actions, which a contractor can construe as authority, to alter the terms of an existing contract, or to perform any work or provide services not under an existing contract.

c. To establish procedures for processing claims occurring as a result of unauthorized commitments.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. Only duly designated contracting officials shall enter into contractual commitments on behalf of the Command. The Supply Directorate's Contracting Officer has delegated authority to conduct and enforce Command policies and procedures regarding unauthorized commitments and communication with contractors.

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(2) Concept of Operations

(a) With the exception of Government Credit Card purchases, all actions that commit the Government to obtain materials or services from commercial concerns MUST be processed through established supply channels and executed ONLY by designated contracting officials acting within the limits of their authority. (Note: Authorized Credit Card holders may procure materials/services up to \$2,500 per purchase).

(b) ONLY THOSE INDIVIDUALS APPOINTED BY HQMC (OR AN AUTHORIZED DESIGNEE) AS CONTRACTING OFFICIALS, SHALL BE AUTHORIZED TO ENGAGE IN CONTRACTING FOR MATERIALS AND SERVICES FOR THIS COMMAND. Appointments shall be in writing and shall set forth any limitations directed in the contracting authority granted to this activity.

(c) Contracting officials are NOT AUTHORIZED, under any circumstances, to issue purchase orders or contracts, after the fact, to pay a supplier for materials or services furnished to MCAS Cherry Point or its tenant commands as a result of an order or commitment issued or made by individuals other than duly designated contracting officials acting within the limits of their authority. Actions by contracting officials beyond the scope of their authority may result in disciplinary action and personal liability.

b. Coordinating Instructions

(1) Written Communications

(a) All written communications intended for dissemination to a contractor or prospective contractor shall be issued by the appropriate contracting Officer or authorized representative acting within the scope of his/her authority when such correspondence:

1 Contractually commits the government.

2 Interprets, waives, or changes the provisions of any existing contract or solicitation document.

3 Exercises any right under a contract such as right of termination or right to make changes under the "Changes" clause.

4 Proposes to affect any other contractual term or provision.

(b) All written communications that involve contractual matters that affect contract administration shall be

sent via the appropriate Contracting Officer or field contract administration office. Correspondence relating to matters not within the responsibility of the contract administrators may be exchanged directly with the contractor, but a copy shall be furnished to the Contract Administrator.

(2) Oral Communications

(a) Whenever possible, communications concerning contractual matters with contractors or prospective contractors shall be in writing. Oral discussions, when essential, with commercial concerns that involve substantive matters in connection with pending or prospective procurement actions shall be conducted through the appropriate Contracting Office. This includes the oral solicitation of prices and technical or management type information, or engineering data in connection with a contemplated procurement.

(b) When communications may affect the scope or provisions of an existing contract, the Contract Administrator and/or Contracting Officer, if possible, shall be a party to the discussions. If they cannot be made parties to the discussions, they shall be advised immediately of the matters discussed and of any possible consequence of the discussions. No obligation shall be made without the prior approval of the Contracting Officer. Where legal aspects of a contract are to be discussed, Counsel shall be made a party to the discussions. Such discussions should be documented in the appropriate contract file.

(3) Statement of Limitation of Authority

(a) In all circumstances where the officially designated contracting officials are not actively participating in the above communications, the following "Statement of Limitation of Authority" will be provided to the contractor by the participating Government representative(s): "You are hereby notified that I do not have the authority to direct you in any way to alter your obligations or change the statement of work in your contract. Further, if the Department of Navy, as a result of the information obtained from today's discussion, does desire to alter your contract obligations or to change the contract statement of work, changes will be issued in writing and signed by the Contracting Officer."

(b) This written statement gives the contractor positive notice that a Government/contractor work requirement discussion, by itself, does not constitute a change to the requirements of the contract.

(4) Procedures for Submission/Processing of Claims.

Requests for payment of claims resulting from unauthorized commitments submitted by MCAS Cherry Point, or a tenant command,

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shall be submitted, evaluated, and processed under the guidelines set forth in the references. Enclosure (1) contains the format for submission of unauthorized commitment claims; however, the basic submission requirements are as follow:

(a) The individual who made the unauthorized commitment shall sign a statement that provides a complete purchase description of materials and/or services obtained; explains why established procurement procedures were not followed; describes the Government requirement which necessitated the unauthorized commitment; and indicates the benefit received, its value, and all other pertinent facts.

(b) The individual will annotate the original of all orders, invoices or other documentary evidence with a signed statement certifying that supplies/services billed were received and accepted. The signed statement and all pertinent documents will be forwarded, through the individual's organizational chain of command, to the individual's Directorate/Activity Head who will prepare and endorsement recommending approval or disapproval. The Directorate/Activity Head's endorsement, enclosure (1), and all pertinent documents will be forwarded to the 2d MAW Commanding General or the MCAS Commanding Officer, whichever is applicable for final endorsement.

(c) If the 2d MAW Commanding General or the MCAS Commanding Officer concurs with ratifying the unauthorized commitment, as submitted then their respective Command, then the Commanding General or Commanding Officer, whichever is applicable, will prepare an endorsement, as shown in enclosure (2), verifying the accuracy and completeness of the documentation, providing the accounting citation for the ratifying contract, and describing appropriate measures taken to prevent recurrences of unauthorized commitments. The endorsement and supporting documentation, including enclosure (1), will be forwarded to the Supply Directorate's Contracting Office. Other endorsements by individuals in the chain of command can also be provided; however, the final endorsement as listed in enclosure (2) must be signed by the Commanding General or the Commanding Officer, depending on the Command. As stated in reference (b), the final endorsement cannot be signed "By direction."

c. Tasks

(1) Supply Directorate, Contracting Department

(a) Review the Commanding General's or Commanding Officer's endorsement and the unauthorized commitment claim, enclosure (1), all supporting documentation to determine that questionable information has been investigated. At a minimum, the Contracting Officer should ensure the following:

1 The supplies and/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;

2 The ratifying official has the authority to enter, or could have entered, into a contractual commitment;

3 The resulting contract would otherwise have been proper, if made by an appropriate Contracting Officer;

4 The Contracting Officer reviewing the unauthorized commitment determines the price of the supplies and/or services to be fair and reasonable;

5 The Contracting Officer recommends payment and legal counsel concurs with the recommendation;

6 The funds are available and were available at the time the unauthorized commitment was made; and

7 The ratification is in accordance with any other limitations prescribed under agency procedures.

(b) Prepare a recommendation based on the determination and recommendations of the Commanding General or Commanding Officer and all pertinent information.

(c) Submit the recommendation, the Commanding General's or Commanding Officer's endorsement, and the unauthorized commitment claim to the Deputy Counsel, 67 Virginia Dare Drive, Suite 206, Camp Lejeune, NC 28542-0006 for appropriate action.

(d) Ensure the Ratifying Officer (Contracting Officer) takes actions needed to comply with recommendations received from Legal Counsel (Code 08).

(2) Commanding General/Commanding Officer and Directorate Heads

(a) Ensure all military and civilian personnel of the Command comply with the foregoing policies in the administration of Government procurement programs and contracts.

(b) Reemphasize the policies contained herein to all personnel assigned to their Command and take appropriate action to preclude, to the maximum extent possible, the need for ratification actions.

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(c) If there is any possibility the contractor will interpret the discussion as authority to change the existing contractual requirements, a "Statement of Limitation of Authority" shall be prepared. This statement will be dated, signed, and delivered to the contractor at the conclusion of contract work discussion by personnel who are not "specifically authorized representatives." Specifically authorized representatives shall ensure that all directions or other actions provided to contractors are clearly within the limits of authority cited in their official designations.

(d) Ensure established supply channels are used to obtain supplies or services and that ratification procedures outlined in this Order are not used in a manner that encourages government personnel to make unauthorized commitments.

(e) If purchasing and contracting support is required during non-duty hours, contact the Supply Directorate Duty Section at telephone extension (252) 466-2445.

5. Administration and Logistics. The Commanding General, 2d MAW; the Commanding Officers, Naval Air Depot, Halyburton Naval Hospital, and Combat Logistics Company-21, concur with this Order insofar as it pertains to members of their respective command.

6. Command and Signal

a. Command. This Order is applicable to the Marine Corps Reserve.

b. Signal. This Order is effective the date signed.



R. C. MANN
By direction

DISTRIBUTION: A

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FORMAT FOR SUBMISSION OF UNAUTHORIZED COMMITMENT CLAIMS

(SSIC)
(Code)
(Date)

From: Name of Person Who Made Unauthorized Commitment)
To: Contracting Officer, Supply Directorate, Marine Corps Air
Station, Cherry Point
Via: (1) (Chain of Command of Person Who Made Unauthorized
Commitment)
(2) (Commanding General, 2d MAW or Commanding Officer, MCAS)
Subj: STATEMENT CONCERNING UNAUTHORIZED COMMITMENT WITH (Name of
Company)
Encl: (1) Invoice, Orders and Other Documentary Evidence
1. Provide complete purchase description of materials/services.
2. State in detail why established procurement procedures were not
followed. (Example: "Established procurement procedures were not
followed because the individual who received training on the correct
procedures for procuring supplies and services from commercial
contractors was on leave and I had received no training on how to
perform these duties.")
3. Describe the bona fide government requirement that necessitated
the commitment. (Example: "On the 1st day of February 2001, at
approximately 1600, the copier in Building 451 broke down. I had an
urgent requirement to provide copies of a new directive. The
instruction plate on the copier stated that XYZ Company would
provide services and supplies when needed. I contacted the XYZ
Company representative and he said he would be here the next day.
As promised, the company representative arrived and repaired the
machine. On the 1st day of March 2001, an invoice for \$235 was
received.")
4. Indicate benefit(s) received. (Example: "The copier was
repaired and urgent directives were reproduced on time.")
5. List cost or value of benefits received. (Example: \$235.00)
6. Enclose all orders and invoices (include original documents);
annotate each with a signed statement certifying that supplies or
services billed were received and accepted. (Example: "I received
and accepted services valued at \$235.00 from the XYZ Company on 2
February 2001. John I. Doe, Jr.")

(Signature)

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ENCLOSURE (1)

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FORMAT FOR FIRST ENDORSEMENT OF UNAUTHORIZED COMMITMENT CLAIMS

(SSIC)
(Code)
(Date)

FIRST ENDORSEMENT on [_ORIGINATOR] ltr [SSIC][OFFICE CODE]
of [DATE (DD MON YY)]

From: Commanding General or Commanding Officer, "Command Name",
Cherry Point

To: Contracting Officer, Supply Directorate, Marine Corps Air
Station, Cherry Point

Subj: UNAUTHORIZED COMMITMENT (or the subject of the original
letter)

1. Concur. The accuracy and completeness of the ocumentation has
been verified concerning the unauthorized commitment with the "Name"
Company.

2. An internal review was conducted to ensure an unauthorized
commitment does not occur in the future. Additional guidance and
training was provided to "Name of person(s)" involved in the
"specific unauthorized commitment." (Example: Government Charge
Card Program). (NOTE: This paragraph must desire the measures that
were taken to prevent a recurrence of unauthorized commitments).

3. Utilize the following accounting data for the ratification and
payment of this contract.

Document number: M00146-XXXX-60GE.
LOA:

4. Point of contact at this Command in this matter is
"Director/Deputy Director" at DSN 582-XXXX.

Commanding General or Commanding
Officer Signature

ENCLOSURE (2)