



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
POSTAL SERVICE CENTER BOX 8003
CHERRY POINT, NORTH CAROLINA 28533-0003

ASO 4200.1A
SUP

17 MAY 2016

AIR STATION ORDER 4200.1A

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

Subj: UNAUTHORIZED COMMITMENTS WITH CONTRACTORS AND VENDORS

Ref: (a) Federal Acquisition Regulations (FAR) 1.602-3
(b) Marine Corps Acquisition Procedures Supplement (MAPS) 1.602-3
(c) Navy Marine Corps Acquisition Regulation Supplement (NMCARS)
5201.602-3
(d) MCIEAST-MCB CAMLEJO 4200.2

Encl: (1) Declaration of Facts by the Individual Responsible for Committing the
Unauthorized Commitment
(2) Organizational Chain of Command Endorsement of Declaration of Facts
by Individual Responsible for Committing the Unauthorized Commitment
(3) Ratification of Unauthorized Commitment of Government Funds

1. Situation. Contracting officers, acting within their delegated authority, are the only Government personnel authorized to enter into and sign contracts, contractual commitments, and changes to contracts on behalf of the Government. Contractual agreements made on behalf of the Government, by Government personnel who lack the delegated authority to do so, are unauthorized commitments and are in violation of the policies and procedures set forth in the references. Government personnel who are not an appointed contracting officer, are responsible for ensuring their communications with commercial suppliers and contractors (oral and written), are conducted in a manner to avoid the perception they have the authority to obligate the Government regarding existing or prospective contractual matters.

2. Cancellation. ASO 4200.1.

3. Mission

a. To provide guidance regarding all communications with contractors and vendors that includes cautioning personnel (other than appointed contracting officers), to refrain from making statements or taking actions that may be misconstrued by a contractor or vendor as authority to obligate the Government for existing or prospective contractual matters that result in an unauthorized commitment.

b. To disseminate procedures for the submission of a ratification (i.e., approval) request for unauthorized commitments made by MCAS Cherry Point, 2d Marine Aircraft Wing (2d MAW), and Combat Logistics Company-21 (CLC-21) customers.

4. Execution

a. Commander's Intent and Concept of Operations

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

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(1) Commander's Intent

(a) Only designated contracting officers, acting within the scope of their delegated capacity, are authorized to enter into contractual commitments on behalf of the Government.

(b) The immediate Commanding Officer must forward a request for ratification for any individual who makes an unauthorized commitment to the Marine Corps Installations (MCI) East Regional Contracting Office (RCO), Camp Lejeune (CAMLEJ), for processing via the appropriate organizational chain of command.

(c) The MCIEAST Satellite Contracting Office (located in building 159, Cunningham Blvd) is tasked with providing guidance and assistance to personnel in preparing a request for ratification. Additional information and reference material can be accessed at:
<http://www.mcieast.marines.mil/StaffOffices/Contracting.aspx>.

(2) Concept of Operations

(a) With the exception of authorized purchases made by Government purchase cardholders, only Headquarters Marine Corps (HQMC) appointed contracting officers are authorized to engage in contracting negotiations to obtain materials, supplies, and services for the Government.

(b) Under no circumstances are contracting officers permitted to issue purchase orders or contracts after the fact, to pay a vendor for materials, supplies, or services provided, as a result of an order or commitment issued or made by individuals other than contracting officers.

(c) Generally, only contracting officers acting within the scope of their delegated authority are approved to distribute written correspondence to contractors or vendors that:

1. Contractually commits the Government to terms, conditions, or costs, not in an existing contract.

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

3. Exercises any right under a contract (i.e., the right to termination, to make changes under the "Changes" clause, etc).

4. Proposes to affect any other contractual term or provision.

(d) The customer is authorized to issue written correspondence directly to the contractor or vendor regarding contracting matters not excluded above. The customer correspondence must include the Statement of Limitation of Authority (cited in paragraph 4a(2)(f)), and furnish a copy to the contracting officer.

(e) Customer communication with the contractor or vendor (oral or written), is permitted during the market research phase only. Upon completion of market research (i.e., the requirement is identified), communication with the contractor or vendor is strictly prohibited. Once the Government Commercial Purchase Card purchase is made or the contract is awarded, communication with

the contractor or vendor must be made through the contracting officer or their authorized representative. Only contracting officers or their authorized representatives shall make contractual changes resulting from such discussions. When legal aspects of a contract are to be discussed, the Eastern Area Counsel Office is included in the discussions, which are documented in the appropriate contract file.

(f) When either oral or written communication with a contractor or vendor results in an unauthorized commitment, the individual who made the unauthorized commitment must forward the documentation outlined in paragraph 4b(2), via their organizational chain of command, to their first General Officer (GO).

(g) The first GO is the only official authorized to provide the endorsement of concurrence as outlined in paragraph 4b(4). Based on reference (b) and amplification by the Office of Counsel for the Commandant (Procurement and Fiscal Law), unauthorized commitments must be endorsed by the first General Officer in the initiating activity's chain of command, unless there is a Colonel in the position of "Acting." This endorsement may not be signed "By direction." Direct involvement in the ratification process provides the GO the opportunity to identify additional training requirements to develop specific unit procedures to preclude possible recurrence of unauthorized commitments.

(h) The MCIEAST RCO completes the final ratification for unauthorized commitments less than or equal to \$50,000. For unauthorized commitments greater than \$50,000 but less than or equal to \$100,000, ratification is completed by the HQMC Assistant Deputy Commandant, Installation and Logistics (I&L). Unauthorized commitments greater than \$100,000 can only be ratified by the HQMC Deputy Commandant (I&L).

(i) Unauthorized commitments less than or equal to \$50,000 are ratified or denied by the MCIEAST RCO within 120 calendar days of receipt of the ratification package. If ratified, an appropriate contractual document is effected within 30 calendar days thereafter.

b. Coordinating Instructions. Commanding Officers and Directorates are responsible for ensuring personnel under their command are aware of, and comply with, applicable laws, regulations, and procedures with regards to committing the Government to financial obligations.

(1) Reemphasize DON, HQMC, and local procurement policies, and take appropriate action to preclude, to the maximum extent possible, the need for unauthorized commitment ratification actions.

(2) Preclude the possibility of misinterpretation by the contractor or vendor, ensure individuals who are not contracting officers or authorized representatives, but communicate in writing with contractors or vendors, provide the contractor or vendor a signed Statement of Limitations of Authority, as outlined in paragraph 4a(2)(f).

(3) Ensure information provided to contractors or vendors, and decisions made on behalf of the Government by contracting officers or authorized representatives, are clearly within their scope of authority.

(4) Ensure ratification procedures outlined in this Order are not used in a manner that encourages Government personnel to make unauthorized commitments.

c. Tasks

(1) MCIEAST Satellite Contracting Office

(a) Provides guidance and counseling to Installation personnel regarding the unauthorized commitment ratification process.

(b) Assists Installation personnel in preparing the unauthorized commitment ratification package to preclude processing delays by the MCIEAST RCO.

(2) Originator of the Unauthorized Commitment

(a) Prepares and signs the Declaration of Facts by the Individual Responsible for Committing the Unauthorized Commitment (enclosure (1)). Include the original supporting documentation (e.g., vendor's invoice, original purchase request, contractor's proposal, funding verification, etc), as enclosures to the signed declaration.

(b) Forwards the completed declaration, which includes the supporting documentation, to their immediate Commanding Officer for first endorsement and subsequent forwarding via their organizational chain of command to their GO for final endorsement as outlined in paragraph 4b(5).

(3) Originator's Immediate Commanding Officer

(a) Prepares and signs the first endorsement on the Declaration of Facts provided by the individual responsible for committing the unauthorized commitment (enclosure (2)).

(b) Forwards the declaration of facts, which includes the supporting documentation, enclosures (1) and (2), and the first endorsement to the next higher Commanding Officer via the organizational chain of command for endorsement as outlined in paragraph 4b(5).

(4) General Officer's Command

(a) Prepares and signs the Ratification of Unauthorized Commitment of Government Funds (enclosure (3)).

(b) Forwards the declaration of facts, supporting documentation, organizational chain of command endorsements, and the final endorsement to the MCIEAST Satellite Contracting Office for content check and subsequent submission to MCIEAST RCO for processing.

(5) Ratification Package Routing by Command

(a) MCAS Cherry Point

1. Originator of unauthorized commitment.
2. Originator's immediate supervisor.

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3. Originator's department head.
4. Originator's immediate Commanding Officer/Director.
5. Installation Commander.
6. MCIEAST Satellite contracting office.
7. MCIEAST GO for final endorsement.
8. MCIEAST RCO for ratification.

(b) 2d MAW

1. Originator of unauthorized commitment.
2. Originator's department head.
3. Originator's immediate Commanding Officer.
4. Originator's group Commanding Officer.
5. 2d MAW General Officer for final endorsement.
6. MCIEAST Satellite contracting office.
7. MCIEAST RCO for ratification.

5. Administration and Logistics. Questions pertaining to the contents of this Order should be directed to the Supply Directorate, MCAS Cherry Point.

6. Command and Signal

a. Command. This Order is applicable to MCAS Cherry Point and its subordinate and tenant commands.

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


TRAVIS L. POWERS
Executive Officer

DISTRIBUTION: A

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DECLARATION OF FACTS BY THE INDIVIDUAL RESPONSIBLE FOR
COMMITTING THE UNAUTHORIZED COMMITMENT



Insert local letterhead

IN REPLY REFER TO:

Insert SSIC

Insert code

Insert date

Tailor all aspects of this template to the individual unauthorized commitment and ensure template areas providing sample language or instructions (i.e., italicized bold text) are deleted prior to submission.

From: *Name, Grade/Rank, and Title of Person Who Made the Unauthorized Commitment*

To: *Immediate Commanding Officer in the Organizational Chain of Command of Person Who Made Unauthorized Commitment*

Subj: *DECLARATION OF FACTS BY THE INDIVIDUAL RESPONSIBLE FOR COMMITTING THE UNAUTHORIZED COMMITMENT FOR insert materials, supplies, or services received by the Government*

Ref: (a) *Marine Corps Acquisition Procedures Supplement 1.602-3-100*

Encl: (1) *Contractor/Vendor Invoice*
(2) *Funding documentation substantiating funding availability*
(3) *Background additional relevant information, if needed*

1. *Provide a summary of the circumstances surrounding the unauthorized commitment. Explain your role in the ordering of the materials, supplies, or services. Include dates, times, and names, ranks, and titles of individuals involved as well as the contractor/vendor name, description of the materials, supplies, or services purchased, and the estimated value. Describe the benefit gained by the Government through acceptance of the materials, supplies, or services. Convey your knowledge regarding proper procedures for making this type of purchase and describe those procedures. Clarify if those procedures existed at the time of the unauthorized commitment and if so, why they were not followed. Use as many paragraphs as needed.*

Signature

(insert printed name, grade/rank, and title)

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ORGANIZATIONAL CHAIN OF COMMAND ENDORSEMENT OF DECLARATION OF FACTS BY
INDIVIDUAL RESPONSIBLE FOR COMMITTING THE UNAUTHORIZED COMMITMENT



Insert local letterhead

IN REPLY REFER TO:
Insert SSIC
Insert code
Insert date

Ensure template areas providing sample language or instructions (i.e., italicized bold text) are deleted prior to submission.

(FIRST, SECOND, etc.) ENDORSEMENT on insert code ltr insert serial #, and date of endorsement

From: *Organizational Commanding Officer of Person Who Made The Unauthorized Commitment*

To: *GO*

Via: *Organizational Chain of Command of Person Who Made Unauthorized Commitment*

Subj: *DECLARATION OF FACTS BY INDIVIDUAL RESPONSIBLE FOR COMMITTING THE UNAUTHORIZED COMMITMENT WITH insert name of contractor company or vendor*

Ref: (x) *Do not repeat a reference that has already been identified in the basic letter or previous endorsement. Identify only the references added. Continue the lettering sequence from the last previous endorsement (e.g., if the basic letter and previous endorsements had references identified up to letter (b), the first reference for this endorsement would be letter (c)).*

Encl: (x) *Do not repeat an enclosure that has already been identified in the basic letter or previous endorsement. Identify only the enclosures added. Continue the numbering sequence from the last previous endorsement (e.g., if the basic letter and previous endorsements had enclosures identified up to number (3), the first enclosure for this endorsement would be number (4)).*

1. *Insert forwarding justification recommending approval or disapproval.*

(Signature)

Copy to:
Files

Enclosure (2)

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RATIFICATION OF UNAUTHORIZED COMMITMENT OF GOVERNMENT FUNDS



Insert local letterhead

IN REPLY REFER TO:
Insert SSIC
Insert code
Insert date

Tailor all aspects of this template to the individual acquisition and ensure template areas providing sample language or instructions (i.e., italicized bold text) are deleted prior to submission.

FINAL ENDORSEMENT on insert code ltr, serial #, and date of endorsement

From: Commanding General

To: Regional Contracting Officer, Marine Corps Installations East, Director of Contracts

Subj: RATIFICATION OF UNAUTHORIZED COMMITMENT OF GOVERNMENT FUNDS FOR *insert supplies/services to be ratified*

Ref: (x) *Do not repeat a reference that has already been identified in the basic letter or previous endorsement. Identify only the references added. Continue the lettering sequence from the last previous endorsement (e.g., if the basic letter and previous endorsements had enclosures identified up to letter (e), the first enclosure for this endorsement would be letter (f)).*

Encl: (x) *Do not repeat an enclosure that has already been identified in the basic letter or previous endorsement. Identify only the enclosures added. Continue the numbering sequence from the last previous endorsement (e.g., if the basic letter and previous endorsements had enclosures identified up to number (5), the first enclosure for this endorsement would be number (6)).*

1. Enclosure (x), which includes all documentary evidence of the transaction, is forwarded in accordance with reference (x).

2. I have carefully reviewed all documentation included herein and find, to the best of my knowledge and belief, the information to be accurate and complete. I concur that ratification is in the best interest of the Marine Corps. If the CG disagrees with any of the information provided in enclosure (1), it must be documented here for corroborating purposes.

3. *Insert title of the organization/activity that received the materials, supplies, or services received insert complete description of the materials, supplies, or service received. The Government has obtained a benefit resulting from the performance of the unauthorized commitment.*

Enclosure (3)

RATIFICATION OF UNAUTHORIZED COMMITMENT OF GOVERNMENT FUNDS

4. Funding in the amount of *insert amount of the unauthorized commitment* for the insert "materials", "supplies" or "services" described above is available and was available at the time the unauthorized commitment was made. The following *insert fiscal year of funds to be used and the type of funds, e.g., "FY22 OM&N"* will be used to ratify this unauthorized commitment:

Insert the Line of Accounting for the funds identified above.

5. *Describe the measures taken to preclude future unauthorized commitments.*

(Signature)