

CHECKLIST FOR RATIFICATION OF UNAUTHORIZED COMMITMENTS

- Ref : (a) Federal Acquisition Regulation 1.602-3
(b) Marine Acquisition Procedures Supplement 1.602-3
(c) Policy Determination: Ratification of Unauthorized Commitments.

I. Definitions.

- Unauthorized Commitment. An agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.
- Ratification. The act of approving an unauthorized commitment by an official who has the authority to do so.

II. Initiating Activity Responsibilities (unit and individual which committed the Unauthorized Commitment)

1. [] Provide a statement signed by the person who made the Unauthorized Commitment describing the circumstances. The statement must address the following:
 - a. [] What bona fide Government requirement necessitated the commitment.
 - b. [] Why were normal procurement procedures not followed?
 - c. [] Did the Government derive any benefit from the goods or services received?
 - d. [] What is the cost of the goods or services?
 - e. [] Are there any other pertinent facts?
2. [] Provide all orders, original invoices, and other documentary evidence of the transaction.
3. [] Provide endorsement up to and including the first General Officer (May be signed by O6 acting in absence of CG) in the chain of command on whether the commitment should be ratified. The endorsement provides the following:
 - a. [] Verifies the accuracy and completeness of the documentation
 - b. [] Describes the measures taken to prevent a recurrence of an unauthorized commitments within the command.
 - c. [] Provides a complete purchase request and appropriate funding for ratifying the contract. Funding must be from the fiscal year in which the Unauthorized Commitment took place if such funds are available. Otherwise, currently available funds may be used.
4. [] Forward package to the Regional Contracting Office, Camp Lejeune.

III. Contracting Officer's Responsibilities (Regional Contracting Office, Camp Lejeune)

5. [] Review the documentation to and endorsement to ascertain whether there are any doubtful questions of fact.

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6. [] Prepare a Contracting Officer's (KO) Determinations and Findings (D&F). The D&F is the KO's determination addressing the following:
- a. [] The Unauthorized Commitment was not made to circumvent or evade procurement statutes and regulations.
 - b. [] The contractor does not have an adequate remedy at law for which the contracts disputes act provides procedures for obtaining relief.
 - c. [] Supplies or services have been provide to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the Unauthorized Commitment.
 - e. [] The ratifying official has the authority to enter into a contractual commitment.
 - f. [] The resulting contract would otherwise have been proper if made by an appropriate contracting officer. The Government was not otherwise precluded by law from procuring the supplies/services.
 - g. [] The contracting officer reviewing the Unauthorized Commitment determines the price to be fair and reasonable.
 - h. [] Payment is not for unallowable costs.
 - i. [] The contracting officer recommends payment.
 - j. [] Funds are available and were available at the time the Unauthorized Commitment was made.
 - k. [] The ratification is in accordance with any other limitations prescribed under agency procedures.

7. [] Forward package to legal.

IV. Legal's Responsibilities (Eastern Area Counsel's Office)

8. [] Review all documentation as to form and legality and for any additional pertinent comment or advice.
9. [] Provide approval/determination to Ratifying Official.
10. [] Package returned to Contracting.

V. Chief of Contracting Office (CCO) Responsibilities

11. [] Review the documentation and endorsement and if ratification is proper:
- a. [] Prepare CCO's recommendation to the HQMC if greater than \$25K.
 - b. [] Ratify the unauthorized commitment if less than \$25K..
 - c. [] Execute the appropriate contractual document if ratified.
 - d. [] If not ratified, notify the command, the contractor and person who initiated unauthorized commitment.
 - d. [] Ratification action completed and file closed _____.

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**** Note: Based on the Marine Acquisition Procedures Supplement (MAPS) and amplification by the Office of Counsel for the Commandant (Procurement and Fiscal Law), Unauthorized Commitments must be endorsed by the lowest level Commanding General in the initiating activities chain of command unless there is a Colonel (O6) in the position of “Acting” for that Commanding General. This endorsement may not be signed “By direction.”**

For Unauthorized Commitments under \$25,000, final ratification is completed by the Regional Contracting Officer, MCB Camp Lejeune. For Unauthorized Commitments over \$25,000 ratification is completed by the Deputy Commandant for Installation and Logistics.