



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK MD 21702-5014

MCMR-AAP-A

14 October 2011

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Procurement Advisory Notice (PAN) 11-04*
Review and Approval of Ratifications of Unauthorized Commitments

1. PURPOSE. The purpose of this memorandum is to establish policy and procedures for the review and approval of requests to ratify unauthorized commitments. The roles and responsibilities of all individuals required to participate in the ratification process are explained herein.

2. BACKGROUND.

a. Only a duly appointed contracting official within his/her authority may legally procure and obligate the Government to pay for supplies and services. An unauthorized commitment occurs when a Government representative makes an agreement that is not binding on the Government solely because the Government representative lacked authority to make the agreement. The process commonly starts when an unauthorized Government representative engages the services of a contractor or acquires a supply. The process heightens when the contractor submits an invoice for payment and the Government is unable to disburse payment. The individual making such a commitment remains liable to the contractor in accordance with the terms of his/her agreement. Individuals who elect to pay a contractor with personal funds may not request a ratification be processed.

b. The Government is not liable for an unauthorized commitment unless and until an authorized Government official determines, at the completion of a process called ratification, that the Government should accept the unauthorized commitment as a Government obligation. If and when the appropriate Government contracting official ratifies the unauthorized commitment, he or she obligates appropriated funds and the contractor is paid the amount obligated.

c. Unauthorized commitments must be avoided to the maximum extent possible. Effective contract administration and outreach efforts which reinforce the limitations of authority for those without delegations will mitigate the risk of these occurrences.

*This PAN replaces USAMRAA Policy 07-08, 13 January 2010, Subject: Review and Approval of Ratification of Unauthorized Commitments

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3. APPLICABILITY.

a. This policy applies to all components of the U.S. Army Medical Research and Materiel Command (USAMRMC). Ratification of unauthorized commitment is covered in the Federal Acquisition Regulation (FAR) at 1.602-3 and in the Army Federal Acquisition Regulation Supplement (AFARS) at 5106.602-3 and 5101.602-3-90. Nothing in this policy is intended to conflict with these regulations. Rather, the policy presents the applicable process to apply those regulations.

b. This policy applies to any request for ratification of an unauthorized commitment by a member of the USAMRMC. Only the Head of the Contracting Activity (HCA) can ratify unauthorized commitments in excess of \$100,000. The HCA has delegated the authority to ratify unauthorized commitments of \$100,000 or less to the Principal Assistant Responsible for Contracting (PARC) and those of a value of \$10,000 or less to the Chief of the Contracting Office.

4. PROCEDURES.

a. **Government Representative** - The Government representative who committed the unauthorized commitment shall submit a signed ratification statement (See sample at Appendix A) to his/her Commander, Director, or Senior Staff Officer. The statement must describe:

(1) The specific supplies or services that have been provided to and accepted by the Government;

(2) The circumstances and the reason normal procedures were not followed;

(3) What bona fide Government requirement necessitated the commitment;

(4) The benefit received; and

(5) The value of the supplies/services

(a) The Government representative who committed the unauthorized commitment shall obtain a claim for payment (an original invoice) and shall complete a Material Inspection and Receiving Report (DD Form 250) for submission with the ratification statement.

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b. Commander, Director, or Designated Senior Staff Officer - If the Commander, Director, or Senior Staff Officer designated concurs that the unauthorized commitment should be ratified, he/she must sign an endorsement (See sample at Appendix B). The endorsement must:

- (1) Verify the accuracy and completeness of the documentation;
 - (2) Describe the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken;
 - (3) State the resulting contract would otherwise have been proper if made by an appropriate Contracting Officer; and
 - (4) State funds are available and were available at the time the unauthorized commitment was made
- (a) If the unauthorized commitment was for services, The Commander, Director, or Senior Staff officer designated must obtain an approved Request for Service Contract Approval Form (SCAF) with worksheets. The SCAF with worksheets is available at www.asamra.army.mil.
- (b) The Commander, Director, or Senior Staff Officer designated must obtain a funded purchase request with a complete description of the supplies delivered or services rendered.
- (c) The Commander, Director, or Senior Staff Officer designated must forward the ratification package (the ratification statement of the person who committed the unauthorized commitment, the invoice, the receiving report, the endorsement, the purchase request, and the SCAF, (if necessary) to the Policy Branch, USAMRAA with a recommendation the action be ratified.

c. Policy Branch – USAMRAA

- (1) A Policy Branch member will register the ratification package into the USAMRAA Ratification Log located on the USAMRAA Shared ("R") Drive. Submissions will be numbered according to the fiscal year and the chronological order within the fiscal year the ratification package was received.

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(2) A Policy Branch member will scrutinize the ratification package to ensure compliance with submission requirements of the regulations and this notice. Non-compliant submissions will be discussed with the submitter in an effort to rectify the package.

(3) A Policy Branch member will then forward the compliant ratification package to the Chief of Business Operations, USAMRAA.

d. Chief, Business Operations/Customer Service Center Chief - USAMRAA

(1) The Chief of the Business Operations Division will review the ratification package and forward it to the appropriate Customer Service Center (CSC) Chief.

(2) The CSC Chief will review the ratification package and will assign it to a Contracting Officer within the CSC.

e. Contracting Officer - USAMRAA

(1) The Contracting Officer will review the ratification package and determine the adequacy of all facts, records, and documents contained therein and will obtain any additional material required.

(2) The Contracting Officer shall prepare a Summary of Facts memorandum (See sample at Appendix C) to include a recommendation to ratify the transaction and a recommendation to make payment. This memorandum, accompanied by the complete ratification package, will be will be routed through a USAMRAA Attorney Advisor for written concurrence and forwarded to the appropriate Ratification Approving Official for final approval to ratify the unauthorized commitment.

(3) If the Contracting Officer recommends the transaction not be ratified, he/she will recommend whether or not the matter should be processed under FAR Part 50 and the Defense Federal Acquisition regulations Supplement (DFARS) Part 250 (Public Law 85-804) as a General Accounting Office claim, or in some other separate way. This recommendation will indicate the written concurrence with same by a USAMRAA Attorney Advisor.

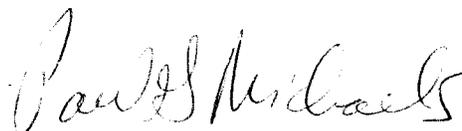
f. Ratification Approving Official – USAMRAA - Upon approving the ratification file, the Ratification Approving Official will return the file to the Contracting Officer for formulation of the appropriate procurement instrument obligating funds to finalize the process. The Contracting Officer shall furnish a member of the Policy Branch with the procurement instrument number for the ratification.

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5. PROPONENT. The proponent for this notice is the USAMRAA Chief of Staff.

A handwritten signature in black ink, appearing to read "Paul G. Michaels". The signature is written in a cursive, flowing style.

PAUL G. MICHAELS, eJD
Principal Assistant Responsible
for Contracting

SAMPLE
RATIFICATION STATEMENT

At 2100 hours on 07 July 2011, Lowery's Door Repair and Locksmith Services provided emergency assistance by repairing a primate cage door, removing a broken lock from that door, and installing a new combination lock on the door.

I was working alone on the evening of 07 July 2011. At approximately 2030 hours, after finishing the cleaning of a primate cage housing four Rhesus monkeys, I placed the primates back into the cage. When I attempted to close and lock the primate cage door, the door would not close completely and the lock on the door was broken. Thus, I could not close/secure the primates in their housing. I was able to quickly, temporarily secure the cage door by running a six foot long leather strap through the cage and cage door and then tying it.

I could not follow normal procurement procedures because, given the time of day, there was no contracting official on duty in USAMRAA for me to contact to seek assistance.

The bona fide requirement to properly secure and lock the cage door necessitated that I find someone with the skills and abilities to quickly assist knowing the safety and health of the primates and myself were at stake.

I called Lowery's Door Repair and Locksmith Services, Frederick, Maryland, and was able to get a locksmith to respond on site within fifteen minutes. Mr. Lowery was able to repair the door, remove the broken lock from the cage door, and install a new combination lock.

The benefit derived from Mr. Lowery's services was invaluable as had he not come to the rescue, the primates could have gotten loose, harmed themselves, the facility, and possibly me.

The value of the supplies and services needed to complete this repair was \$3,125.00.

John Jones
Animal Caretaker
USAMRIID

SAMPLE

MCMR-_____

Date

MEMORANDUM FOR: Chief of the Policy Branch, US Army Medical Research Acquisition Activity (MCMR-AAP-A), 820 Chandler Street, Fort Detrick, MD 21702-5014

SUBJECT: Endorsement of Ratification

1. Enclosed is a complete ratification package associated with the unauthorized obtainment of door repair and locksmith services by Mr. John Jones, Animal Caretaker, US Army Medical Research Institute of Infectious Diseases, during the evening of Thursday, 07 July 2011.
2. I hereby verify the accuracy and completeness of the documentation contained in the package and I endorse Mr. Jones' request that the unauthorized action he took be ratified.
3. I have spoken with Mr. Jones about the incident that precipitated the unauthorized commitment and have advised him that any such future occurrences should be handled by immediately pressing the emergency help button located in each primate laboratory within the Institute which will result in the immediate response of the animal care and facility security team who will safely secure the door in some fashion and thus permit the time to go through normal procurement channels to effect the door repair.
4. The resulting contract precipitated by the telephone call made by Mr. Jones seeking emergent door repair and security services would otherwise have been proper if made by an appropriate Contracting Officer.
5. Funds are available and were available at the time the unauthorized commitment was made.
6. I commend Mr. Jones for his quick, though incorrect, action taken to resolve the immediacy of the problem. I am not recommending any disciplinary action be taken against Mr. Jones.

JOSHUA J. JACKSON
Colonel, MC
Commander

SAMPLE

MCMR-AAA-_____

Date

MEMORANDUM THRU Attorney-Advisor, U.S. Army Medical Research Acquisition Activity, (MCMR-JA), 820 Chandler Street, Fort Detrick, MD 21702-5014

MEMORANDUM FOR Principal Assistant Responsible for Contracting / Chief of the Contracting Office, US Army Medical Research Acquisition Activity (MCMR-AAA), 820 Chandler Street, Fort Detrick, MD 21702-5014

SUBJECT: Statement of Facts – Ratification 11-__

1. I have reviewed this ratification package and have determined the adequacy of facts, records, and documents pertaining to this matter.
2. In accordance with Federal Acquisition Regulation (FAR) 6.102-3(c)(1) – (7), I have concluded the following conditions exist:
 - a. The services rendered were accepted by the Government and provided benefit.
 - b. The ratifying Official, in this case the Chief of the contracting Office, has the authority to enter into a contractual commitment.
 - c. The resulting contract would otherwise have been proper if made by an appropriate Contracting Officer.
 - d. The price tendered is determined to be fair and reasonable.
 - e. Payment is recommended.
 - f. A statement has been furnished that funds are available and were available at the time the unauthorized commitment was made.
 - g. The ratification is in accordance with any other limitations prescribed under agency procedures.
3. I recommend the approval of Ratification Number 11-__.

CONCUR / NON-CONCUR

Jessica Jance
Attorney-Advisor
USAMRAA

Date _____

APPROVED / DISAPPROVED

Paul G. Michaels, eJD
PARC
USAMRMC

Date _____

or

Brian E. Martin
Chief of the Contracting Office
USAMRAA

Date _____