

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND
2748 Worth Road
JBSA Fort Sam Houston, Texas 78234-6000

MEDCOM Pamphlet
No. 715-2

3 Feb 17

Procurement
**U.S. ARMY MEDICAL COMMAND REQUEST FOR APPROVAL
OF UNAUTHORIZED COMMITMENTS**

TABLE OF CONTENTS

	<u>Paragraph</u>	<u>Page</u>
Chapter 1. General		
History	1-1	2
Purpose	1-2	2
References	1-3	2
Explanation of abbreviations and terms	1-4	2
Applicability	1-5	2
Chapter 2. Guidance and Procedures		
General Information	2-1	2
Guidance	2-2	3
Procedures	2-3	3
Disagreement with Contracting Officer's Recommendation	2-4	4
Responsibilities	2-5	5
Appendix A. References		6
Appendix B. MEDCOM Form 747 Instructions		7
Appendix C. MEDCOM Form 747, MEDCOM Request for Approval of Unauthorized Commitment		12
Glossary		18

*This pamphlet supersedes MEDCOM Pamphlet 715-2, 10 March 2005.

Chapter 1

General Information

1-1. History. This is the second printing of this publication. This revision includes updated procedures for both U.S. Army Health Contracting Activity (USAHCA) and U.S. Army Medical Research Acquisition Activity (USAMRAA).

1-2. Purpose

a. Function. To provide guidance and facilitate a standardized Unauthorized Commitment (UC) processing, ensure compliance with U.S. Army and Medical Command (MEDCOM) regulations and procedures which are consistent with Federal and Department of Defense directives.

b. Scope. This pamphlet expands on the regulations and directions set forth in the Federal Acquisition Regulation (FAR) and Army Federal Acquisition Regulation Supplement (AFARS). It is intended to be used by MEDCOM subordinate activities involved in the ratification of UC process.

c. Objective. This pamphlet establishes procedures for processing U.S. Army Medical Command (MEDCOM) Form 747, MEDCOM Request for Approval of Unauthorized Commitment. It also provides guidance and standard procedures to Office of the U.S. Army Surgeon General (OTSG) personnel, MEDCOM operational and tactical levels, USAMRAA personnel, Regional Health Commands, U.S. Army Veterinary Command, U.S. Army Medical Centers/Medical Department Activities, and Dental Activity levels respectively. A UC committed by non-MEDCOM personnel will not be processed by a MEDCOM contracting office unless the UC relates to a contractual action issued and/or administered by a MEDCOM contracting office. MEDCOM Form 747 will be used by all MEDCOM contracting offices to process UC actions. A UC committed by any MEDCOM personnel against a non-MEDCOM requirement action will be processed in accordance with the appropriate contracting office procedures. This pamphlet is intended to be used in conjunction with any other current OTSG/MEDCOM, USAHCA or USAMRAA policy.

1-3. References. References are listed at Appendix A.

1-4. Explanation of abbreviations and terms. Abbreviations and special terms used in this publication are explained in the glossary.

1-5. Applicability. This pamphlet applies to OTSG personnel; Headquarters, MEDCOM and its subordinate commands.

Chapter 2

Guidance and Procedures

2-1. General Information

a. Only a duly appointed contracting official acting within his/her authority may legally procure and obligate the government to pay for supplies and services. An UC occurs when a government official makes an agreement that is not binding on the government solely because the government official lacked authority to make the agreement. Procurement of goods and services placed on the government purchase card, without authority, results in an UC. The process commonly starts when an unauthorized government official engages the services of a contractor or acquires a supply. The process heightens when the contractor/vendor submits an invoice for payment and the government is unable to disburse payment because the purchase was not authorized. The individual making such a commitment remains liable to the contractor/vendor in accordance with the terms of his or her agreement. Individuals who elect to pay a contractor/vendor with personal funds may not request a ratification to be processed, as described below.

b. The U.S. Government is not liable for an UC unless and until an authorized government procurement official determines, at the completion of a process called ratification, the Government should accept the UC as an U.S. Government liability. If and when the appropriate contracting official ratifies the UC, the Contracting Officer (KO) shall obligate appropriated funds and the contractor/vendor may be paid the amount obligated.

2-2. Guidance

a. Commanders, Directors, and Staff Chiefs will take positive action to preclude the need for ratification actions. Although procedures are available to determine whether to ratify an UC, these procedures will not be used in a manner that encourages such commitments being made by government personnel.

b. The USAHCA Contracting Office Chiefs and USAMRAA Group Chiefs will take all necessary steps to ensure that UCs are resolved and completed within 90 days. To ensure other agencies involved in the ratification process have sufficient administrative lead time, the committing activity will complete the request for ratification, MEDCOM Form 747, within five calendar days after conducting a root cause analysis of the UC. Success in the endeavor requires continuous communication between the committing activity and the appropriate Contracting Office. Commanders, Directors, and Staff Chiefs are encouraged to utilize the available acquisition resources. Acquisition resources are available at the local contracting office.

c. MEDCOM Form 747 will be completed in accordance with the instructions at Appendix B and forwarded to the local Contracting Office Chiefs for review. Legal advice is available from the servicing Staff Judge Advocate.

2-3. Procedures

a. Individuals making UCs will immediately notify their Commanders, Directors, or Staff Chiefs as appropriate. The affected Commander/Director shall schedule and provide a root cause analysis briefing within 45 calendar days of discovery of any UC. Each

analysis shall detail the circumstances and corrective action plan geared towards continual UC prevention and adherence to proper procurement procedures. For USAHCA customers, the Commander/Director Root Cause Analysis briefing shall be delivered via e-mail to the MEDCOM Chief of Staff, MEDCOM Head of the Contracting Activity (HCA), Principal Assistant Responsible for Contracting (PARC) and the Contracting Office Chief 14 calendar days prior to the scheduled briefing. For USAMRAA customers, the Commander/Director Root Cause Analysis briefing shall be delivered via e-mail to the Procurement Policy mailbox at usarmy.detrick.medcom-usamraa.mbx.policy@mail.mil. The briefing is also provided to the MEDCOM Chief of Staff, MEDCOM HCA, USAMRAA PARC and the appropriate USAMRAA Group Chief 14 calendar days prior to the scheduled briefing. The USAHCA Contracting Office Chief or appropriate USAMRAA Group Chief and/or Deputy will participate in this briefing when the PARC or higher level officials are involved. If a contract action is involved, the KO is also required to attend this briefing. A pre-briefing will take place at the USAHCA Contracting Office Chief or appropriate USAMRAA Group Chief level prior to the actual briefing.

b. Upon successful completion of a root cause analysis briefing, Commanders, Directors, and Staff Chiefs shall complete MEDCOM Form 747 within five calendar days. MEDCOM Form 747 will be forwarded to the local Medical Treatment Facility (MTF) Commander or USAMRAA Agency Commander, or authorized designee, for review and signature prior to forwarding the ratification packet to the supporting Contracting Office Chief for review and action. For USAMRAA customers, the completed MEDCOM Form 747 shall be delivered to the Procurement Policy's email address.

c. When deficiencies or irregularities are identified during the review of a ratification packet, the committing activity will be notified. The committing activity shall take appropriate steps to rectify deficiencies or comments noted and promptly resubmit the corrected packet to the local contracting office for another review. A suspense date of five (5) days will be placed for resubmission of the MEDCOM Form 747.

d. After the review of the ratification packet is completed or correction verified, the committing activity will release the ratification packet through the supporting Resource Management Office (RM) to the local contracting office's KO. For USAMRAA customers, the completed MEDCOM Form 747 does not include RM coordination however shall include attached appropriate funding.

e. If the ratification packet is not received from the committing activity by the suspense date, a new suspense date from the local contracting office will be identified to ensure processing of the ratification action is completed within the USAHCA and USAMRAA goal of 90 days.

2-4. Disagreements with Contracting Officer's Recommendation

a. In the event the Commander/Director responsible for completing Block D of the MEDCOM Form 747 disagrees with a KO's recommendation not to ratify the UC, the Commander/Director responsible may submit a separate memorandum detailing the basis for the disagreement through the KO and Office Chief. The KO will forward the

memorandum to the decision authority for consideration with the KO's recommendation. A copy of this documentation will be forwarded to the MTF Commander/Director.

b. The government official responsible for approving or disapproving the ratification will make the approval/disapproval decision considering the facts and circumstances in each case.

2-5. Responsibilities. Leaders and managers at every level have the responsibility and obligation to preclude, to the maximum extent possible, the occurrence of an UC. To succeed, Commanders, Directors, and Staff Chiefs are encouraged to utilize the available acquisition resources within the command during the development and execution of contract requirements. The PARC is the OTSG's/MEDCOM's acquisition professional and your local contracting office is available to assist in acquisition matters. Through the process of continuous communication and acquisition support from your local contracting office and the PARC's office, reoccurrences of UC can be eliminated within the OTSG/MEDCOM.

**Appendix A
References**

**Section I
Required Regulations**

Federal Acquisition Regulation (FAR) 1.602-3
Ratification of Unauthorized Commitments.

Army Federal Acquisition Regulation Supplement (AFARS) 5101.602-3
Ratification of Unauthorized Commitments and 5101.602-3-90, Ratification Procedures.

**Section II
Related Regulations**

Health Care Acquisition Activity Policy Letter 11-02, and its successors
Policy and Procedures Regarding Unauthorized Commitments

OTSG/MEDCOM Policy Memo 15-026, and its successors
Unauthorized Commitments Prevention and Reporting, 24 April 2015

**Section III
Prescribed Forms**

This section contains no entries.

**Section IV
Referenced Forms**

MEDCOM Form 747

Appendix B MEDCOM Form 747 Instructions

1. Complete information on the header of MEDCOM Form 747.
 - a. Insert the amount of the unauthorized commitment (UC).
 - b. Enter the name and address of vendor to include the type(s) of supplies or services received.
 - c. Enter the date the UC was committed.
 - d. Enter the name and address of the unit that committed the UC.

2. Part I – Description of Commitment and Unit Commander’s Review.

- a. *Part 1, Section A, Block 1 - Commitment Circumstances.*

(1) The individual responsible for the UC will complete Part I, Section A, blocks 1 and 2 of MEDCOM Form 747. Identify the name and title of the government official who committed the UC. If the individual who was responsible for the UC does not complete the specified parts of the MEDCOM Form 747, the ratification packet must include an explanation as to why not. Attempts to contact the individual responsible for the UC shall also be documented. If the individual who was responsible is not available, the MEDCOM Form 747 will be completed and signed by someone in authority with the knowledge of the UC.

(2) Provide a chronological explanation of the sequence of events which led to the UC. The explanation needs to clearly articulate the rationale of the circumstances that led to the UC. A thorough explanation is required to allow offices involved in the ratification process to determine the government’s liability. A single line statement is not sufficient to substantiate the legal and acquisition requirements, nor can it adequately explain the circumstances of the UC.

(3) Provide as much information as possible. Explain why normal procedures were not properly executed. The activities involved in the review of the ratification packet must have sufficient information upon which to base their recommendations. When addressing this question, consider the normal procedures in the establishment of the requirement and approval process and then explain why these procedures were not followed.

(4) Describe the bona fide government requirement necessitating the commitment and benefits received as a result. Identify the supplies or services received and explain what benefit the government received from the UC. It’s important to be specific in the benefits were received and what gave rise to the need. Avoid statements such as “official business” or “mission essential” since these statements are too vague and do not substantiate why the UC occurred.

- (5) Address any perceived or actual disputed aspects of the transaction.
- (6) Attach continuation sheets, if required.

b. Part I, Section A, Block 2 - Commitment Circumstances Continued.

(1) List and identify, by title, all documentation supporting the UC. The supporting documentation must be listed in chronological order as explained in the sequence of events which led to the UC.

(2) The following supporting documentation, as a minimum, must be included in the ratification packet.

(a) An official fund certifying document. The fund certifying document must be certified for the fiscal year in which the UC occurred. If the UC occurred in a prior fiscal year and prior year funds are not available for obligation, the Funds Certifying Officer must make an appropriate statement and certification. The funding document must be processed through normal channels for the supplies or services being ratified.

(b) Invoice. The invoice must be completed and must contain the following signed statement by the person submitting the invoice.

“I certify that the above bill is correct and just, that payment thereto has not been received and that the prices are exclusive of taxes, duties or similar charges which are not applicable to the United States Government.”

(c) Receiving Report. The receiving report must also contain the following appropriate statement signed by a government representative. Normally, the government representative should be the person that received the supplies or services.

Statement for supplies: “I certify that the supplies (unauthorized commitment) described herein have been inspected and accepted by a Government official.”

OR

Statement for services: “I certify that the services (unauthorized commitment) described herein have been satisfactorily completed and have been accepted by an authorized Government official.”

c. Last block of Part I, Section A, Typed name and title of individual making unauthorized commitment. Self-explanatory.

3. Part I, Section B - Supervisor Review.

a. This section is to be completed by the immediate supervisor of the individual that made the UC.

b. The immediate supervisor of the person who made the UC summarizes the facts concerning the event.

c. Describe attempts to resolve the UC prior to requesting ratification. Provide an explanation as to why the invoice cannot be canceled or supplies returned.

4. Part I, Section C - Recommendation Regarding Contractual Ratification. This section is to be completed by a Unit Commander, Director, or Activity Chief. At a minimum, this is the first 0-6 or equivalent in the individual's chain of command.

a. *Block 1.* Describe remedial action taken to prevent recurrence or state reason why remedial action is not necessary.

b. *Block 2.* Describe disciplinary action taken. If no disciplinary action was taken, include an explanation as to why no disciplinary action was considered necessary to ensure the ratification process is not used in such a manner in the future as to encourage such commitments by government personnel, thereby violating regulatory and statutory requirements. A statement such as "no disciplinary action was taken" is inappropriate and too vague.

c. *Block 3.* Recommend Contractual Ratification. If the Unit Commander, Director or Activity Chief recommends ratification, the following items are to be attached.

(1) Identify the purchase request that will be used to ratify the UC. The purchase request must be processed through normal channels before being attached to MEDCOM Form 747. Annotate on the appropriate fund certifying document the statement "This fund certification is part of a request for ratification action."

(2) Attach the invoice with appropriate statements including DD Form 250 (Material Inspection and Receiving Report).

d. *Block 4.* Do Not Recommend Contractual Ratification. If the Unit Commander, Director or Activity Chief does not recommend ratification, include appropriate comments to support the recommendation.

e. *Signature block.* Include Typed Name, Title and Organization of Unit Commander. Signature block for the staff elements will be the Chief of Staff (CoS). For subordinate units, signature will be the subordinate Unit Commander. At a minimum, this is the first 0-6 or equivalent in the individual's chain of command.

5. Part I, Section D - Commander's Review.

a. The Hospital or Medical Treatment Facility (MTF) Commander is to review the circumstances, facts, and action taken concerning the UC action and either concur or nonconcur with further processing of the ratification by the Contracting Office Chief. If after reviewing the circumstances, facts and action taken and not concurring with the

action, Hospital/MTF Commander may request further documentation, recommend payment by the individual making the UC, recommend further documentation of corrective actions(s) taken, or provide another form of action and explain. For the Acting Commander, provide a copy of the orders.

b. Signature block. Include Typed Name, Title and Organization of hospital and/or MTF Commander. For subordinate units it will be the OTSG/MEDCOM Chief of Staff.

6. Part II, Contracting Officer's (KO) Review. The assigned KO shall review the request for ratification packet. If deficiencies or irregularities are identified during the review of a ratification packet, the committing activity will be notified. The committing activity shall take appropriate steps to rectify deficiencies or comments noted and promptly resubmit the corrected packet to the local contracting office for another review. Once the packet is reviewed, the KO will prepare a summary statement of facts and obtain a legal review.

7. Part III, Section A - Legal Review and Final Disposition. Legal counsel shall provide a basis for their legal opinion that concurs or nonconcurs with the KO's recommendation to ratify. Once the Legal Advisor has completed their legal review, signed and dated the MEDCOM 747 form, the file shall be returned to the local Regional Contracting Office.

8. Part III, Section B (Completed by PARC or Contracting Office Chief). To obtain approval higher than the Contracting Office Chief, the USAHCA customers completed MEDCOM 747 is forwarded to Policy and Compliance. For USAMRAA customers, the completed MEDCOM Form 747 is forwarded to the Procurement Policy's email address.

a. Actions \$10,000 or less, the appropriate Contracting Office Chief will approve or disapprove.

b. If the action is in excess of \$10,000 but less than \$100,000, the Contracting Office Chief will recommend approval or disapproval, sign the MEDCOM 747 and forward to the appropriate policy office to obtain the PARC's approval.

c. If the action is in excess of \$100,000, the PARC will recommend approval or disapproval, sign the MEDCOM 747 and forward to the appropriate policy office to obtain the HCA's approval.

Appendix C

Appendix C contains the following "-R" form (authorized for local reproduction).

MEDCOM Form 747
(MEDCOM Request for Approval of Unauthorized Commitment)

MEDCOM REQUEST FOR APPROVAL OF UNAUTHORIZED COMMITMENT

For use of this form see MEDCOM Pam 715-2, the proponent agency is MCAA

IN THE AMOUNT OF (\$):	TO (COMPANY NAME):
------------------------	--------------------

FOR (SUPPLIES/SERVICES):	COMMITTED (DATE):
--------------------------	-------------------

COMMITTING ACTIVITY/UNIT:

PART I - DESCRIPTION OF COMMITMENT AND UNIT COMMANDER'S REVIEW

AUTHORITY: FEDERAL ACQUISITION REGULATIONS (FAR) AND ARMY FEDERAL ACQUISITION REGULATION SUPPLEMENT (AFARS)
 The individual making the unauthorized commitment shall complete Blocks 1 and 2 of Part I, Section A, provide the required documentation, sign, date, and forward to his/her immediate supervisor for completion of Block I, Part I, Section B. The immediate supervisor shall then forward the file to their Unit Commander, Director, or Activity Chief (as a minimum, this is the first 0-6 or equivalent in the individual's chain of command) for completion of Blocks 1 through 4, Part 1, Section C. The complete file shall be forwarded through command channels to the Chief of the Regional Contracting Office. All information will be completed in detail.

PART I, SECTION A - COMMITMENT CIRCUMSTANCES

1. Statement by Individual Describing Circumstances. (Include what bona fide need of the Government necessitated the commitment, how the commitment was made, the name and title of the government official who made the Unauthorized Commitment, why normal procurement procedures were not followed, the benefit received by the Government, the value of that benefit, and any other pertinent facts.)

PART I, SECTION A - COMMITMENT CIRCUMSTANCES (CONT)

2. List and attach all relevant documents. (Include purchase request, funding request, orders, invoices, and other evidence of the transaction.)

TYPED NAME AND TITLE OF INDIVIDUAL MAKING UNAUTHORIZED COMMITMENT:

SIGNATURE:

DATE:

PART I, SECTION B-SUPERVISOR REVIEW

(Completed by immediate supervisor of individual making Unauthorized Commitment)

1. Comments of Immediate Supervisor of Individual Making Unauthorized Commitment.

TYPED NAME, TITLE, AND ORGANIZATION OF SUPERVISOR:

SIGNATURE:

DATE:

PART I , SECTION C-RECOMMENDATION REGARDING CONTRACTUAL RATIFICATION

(Completed by Unit Commander, Director or Activity Chief - as a minimum, this is the first 0-6 or equivalent in the individual's chain of command.)

1. Describe remedial action taken to prevent recurrence or state reason why remedial action is not necessary.

2. Describe disciplinary action taken. (Include a description of any administrative action to be taken under applicable personnel authority or furnish an explanation of why no disciplinary action was considered necessary.)

3. Recommend Contractual Ratification Appropriately Funded Purchase Request and Material Inspection and Receiving Report (DD Form 250) are forwarded herewith.

4. Do Not Recommend Contractual Ratification Explain Reason:

TYPED NAME, TITLE, AND ORGANIZATION OF UNIT COMMANDER:

SIGNATURE:

DATE:

PART I , SECTION D- COMMANDER'S REVIEW

(Completed by MTF Commander, OTSG/MEDCOM Chief of Staff or MRMC customer Commander)

I have reviewed the circumstances, facts, and actions taken concerning the Unauthorized Commitment action and I concur with further processing of the ratification by the Chief of the Regional Contracting Office.

I have reviewed the circumstances, facts, and actions taken and I do not concur that this action should be further processed for ratification. Action should be returned to the activity supervisor:

Further documentation of circumstances.

Payment by individual making the Unauthorized Commitment.

Further documentation of corrective action(s) taken.

Other (Explain).

Detailed statement of why action is returned to the activity supervisor.

TYPED NAME, TITLE, AND ORGANIZATION OF COMMANDER:

SIGNATURE:

DATE:

PART II - CONTRACTING OFFICER'S REVIEW

(Completed by the assigned Contracting Officer)

THE ASSIGNED CONTRACTING OFFICER SHALL REVIEW THE FILE AND PROCEED AS FOLLOWS:

1. Determine the adequacy of all facts, records, and documents furnished and obtain any additional material required.
2. Obtain an opinion from legal counsel as to whether the acquisition is ratifiable under FAR 1.602-3, AFARS 5101.602-3, or should be handled otherwise.
3. State whether the price involved is considered fair and reasonable and indicate how the determination was made.
4. Determine whether sufficient funds are available to pay for acquisition.
5. Prepare a summary statement of facts addressing the foregoing. The statement is to include a recommendation as to whether the transaction should be ratified. *(If more space is required attach plain bond paper).*

TYPED NAME AND GRADE OF CONTRACTING OFFICER:

SIGNATURE:

DATE:

PART III , SECTION A- LEGAL REVIEW AND FINAL DISPOSITION

(Completed by Legal Counsel)

DETERMINE WHETHER THE ACQUISITION IS RATIFIABLE UNDER AFARS 5101.602-3 and FAR 1.602-3, OR RECOMMEND OTHER APPROPRIATE DISPOSITION.

TYPED NAME, GRADE OF LEGAL ADVISOR:

SIGNATURE:

DATE:

PART III , SECTION B

(Completed by PARC or Contracting Office Chief)

Based on the Foregoing Determination, Request for Approval of Unauthorized Commitment is:

1. Actions of \$10,000 or Less

Approved (Issue Purchase Order).

Disapproved (Provide Disposition Instructions in accordance with FAR 1.602-3(d) and AFARS 5101.602-3-90).

2. Actions in excess of \$10,000

Approval is Recommended.

Disapproval is Recommended (See FAR 1.602-3(d) and AFARS 5101.602-3-90).

3. Actions in excess of \$100,000

Approval is Recommended.

Disapproval is Recommended (See FAR 1.602-3(d) and AFARS 5101.602-3-90).

TYPED NAME AND GRADE OF PARC or CONTRACTING OFFICE CHIEF:

SIGNATURE:

DATE:

Glossary

Section I Abbreviations

AFARS

Army Federal Acquisition Regulation Supplement

DFARS

Defense Federal Acquisition Regulation Supplement

FAR

Federal Acquisition Regulation

HCA

Head of the Contracting Activity

KO

Contracting Officer

MEDCOM

U.S. Army Medical Command

MTF

Medical Treatment Facility

OTSG

U.S. Army Office of the Surgeon General

PAC

Policy and Compliance

PARC

Principal Assistant Responsible for Contracting

USAHCA

U.S. Army Health Contracting Activity

USAMRAA

U.S. Army Medical Research Acquisition Activity

Section II Terms

Unauthorized Commitment (UC)

An UC is 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. An UC includes the intentional and/or unintentional arrangement for the receipt of goods or services without a valid contract and without proper contracting authority.

Ratification

The act of approving an Unauthorized Commitment by an official who has the authority to do so.

The proponent of this publication is the U.S. Army Health Contracting Activity. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Commander, U.S. Army Health Contracting Activity, ATTN: MCAA, 2199 Storage Street, Suite 69, JBSA Fort Sam Houston, TX 78234-5069.

FOR THE COMMANDER:



BEVERLY BEAVERS
Colonel, MS
Assistant Chief of Staff for
Information Management

ROBERT L. GOODMAN
Chief of Staff

DISTRIBUTION:

This publication is available in electronic media only. Electronic copies can be obtained from the OTSG/MEDCOM Publications Portal at:

https://army.deps.mil/army/cmds/AMP_DocCnt.