



DEPARTMENT OF THE ARMY  
HUMPHREYS ENGINEER CENTER SUPPORT ACTIVITY  
HUMPHREYS ENGINEER CENTER  
7701 TELEGRAPH ROAD  
ALEXANDRIA, VA 22315-3860

REPLY TO  
ATTENTION OF:

17 APR 2000

CEHEC-CT (715)

MEMORANDUM FOR All HQUSACE, HECSA, WRSC and 249<sup>th</sup> Engineer  
Battalion (Prime Power) Team Members

SUBJECT: Procurement Management Memorandum of Instruction (PMOI# 715-00-03),  
Unauthorized Procurement Practices

1. References.

a. Federal Acquisition Regulation (FAR), Part 1, 1.602-3, Ratification of Unauthorized Commitments.

b. Army Federal Acquisition Regulation (AFARS), Part 1, Subpart 1.602-3, Ratification of Unauthorized Commitments.

b. Corps of Engineers Federal Acquisition Regulation System; (EFARS), Part 1, Subpart 1.602-3, Ratification of Unauthorized Commitments.

2. Definitions.

a. Unauthorized Procurement- when an invoice is received from a vendor/contractor or when goods or services have been purchased without contractual authority (no contract exists).

b. Unauthorized Commitment – an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into the agreement on behalf of the Government. Only warranted contracting officers have the authority to enter into agreements on behalf of the Government.

c. Ratification - the act of approving an unauthorized commitment by an official who has the authority to do so.

3. This memorandum provides procurement guidance and procedures for ratification of unauthorized procurement actions. The procedures for doing a ratification are paperwork intensive on the part of the individual who caused the unauthorized commitment. Additionally, processing the paperwork does not guarantee that it will be approved. Unauthorized procurement actions are not to be taken lightly.

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Supersedes HECSA Contracting Procurement Information Letter (PIL) #90-3, dated 15 April 1990

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4. Procedures.

a. Only the Contracting Officer or his/her authorized representative is authorized to make binding agreements and commit funds for expenditure. In order for this to happen, the following sequence of events must take place:

- (1) Funds are identified and placed on a Procurement Request.
- (2) The Procurement Request is obligated to a procurement instrument (Purchase Order, Contract, etc.)
- (3) The vendor/contractor issues an invoice against the procurement instrument for services rendered or goods delivered.
- (4) A receiving report is generated by the customer documenting delivery of the goods/services.
- (5) Payment is made against the vendor invoice.

Any departure from the first two steps in the above process may result in an unauthorized commitment. When this happens, a ratification is necessary in order to make the transaction "legal".

b. The Contracting Officer shall advise the contractor/vendor that the work is unauthorized and performance is at his personal risk.

c. The individual making the unauthorized commitment shall forward documentation concerning the transaction to the individual's commander or agency head (or senior staff officer designated for this purpose). The documentation shall include:

- (1) A signed statement describing the circumstances, the reason normal contracting procedures were not followed, what bona fide Government requirement necessitated the commitment, the benefit received and its value and any other pertinent facts; and
- (2) All other relevant documents, including orders, invoices or other evidence of the transaction.

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d. If the commander or agency head (or senior staff officer designated for this purpose) concurs that the commitment should be ratified, the documentation described in paragraph a shall be forwarded to the chief of the contracting office with an endorsement that:

- (1) Verifies the accuracy and completeness of the documentation;
- (2) Describes the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken; and
- (3) Provides a complete purchase description and funding for the ratifying contract.

e. The chief of the contracting office to which a proposed ratification action has been forwarded shall assign the action to an individual contracting officer for processing. The contracting officer assigned shall be responsible for:

- (1) Reviewing the case and determining the adequacy of all facts, records and documents furnished and obtaining and additional material required; and
- (2) Preparing a summary of facts to include a recommendation as to whether or not the transaction should be ratified and reasons for the recommendation. When a ratification is approved, the contracting office will issue a purchase order or other contractual document for payment. All appropriate approval levels and fund certifying officers must sign the purchase request. Additionally, the Resource Management Office must endorse the package with a statement that "Funds are available and were available at the time the unauthorized commitment was made."

f. If the recommendation is not to ratify the action, a recommendation should include whether or not the matter should be processed under FAR Part 50 as a General Accounting Office (GAO) claim or in accordance with GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 4, Chapter 2.

g. If a ratification is not approved the individual who caused the commitment may find that they are liable and must pay the vendor/contractor. Based upon the circumstances, the Director of HECSA may also deem that other disciplinary action may be appropriate to correct the situation.

6. Accordingly, all individuals must avoid unauthorized procurement transactions. Care must be taken to prevent unauthorized individuals from making commitments for services or supplies on behalf of the Government. The integrity of the Government contracting system requires strict adherence to published directives and procedures.

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7. The HECSA Contracting Office is available to assist in the development of procurement requirements and to give guidance as necessary.
8. The point of contact regarding this memorandum is Eileen Spears, (703) 428-6348.



CHARLES B. RAU  
Director