UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
BOX 99100
YUMA, ARIZONA 85369-9100

IN REPLY REFER TO:
4290.2
3KG
20 NOV 2001

STATION ORDER 4290.2

From: Commanding Officer
To: Distribution List

Subj: CLAIMS ARISING FROM UNAUTHORIZED COMMITMENTS

Ref: (a) Federal Acquisition Regulation, Subpart 1.602-3 (NOTAL)
(b) Navy Acquisition Procedures Supplement, Subpart 5201.602-3 (NOTAL)
(c) MCO 4200.15G

1. Purpose. To set forth procedures to be utilized by MCAS Yuma and tenant activities serviced by MCAS in processing unauthorized commitments for ratification and payment as prescribed by references (a) through (c).

2. Background

a. References (a), (b) and (c) provide authority and procedures for processing of unauthorized commitments for payment. An unauthorized commitment, for the purpose of this Order, occurs when supplies or services are furnished to the government as a result of the direction, order or commitment issued by individuals other than contracting ordering officers within the Station S-4 Supply Contracts Division.

b. Unauthorized commitments made for the purpose of circumventing or evading procurement statutes and regulations may not be ratified. An unauthorized commitment may only be ratified when the ratifying official finds the commitment was made in good faith and resulted from either an urgent or emergency requirement or from a mistake in fact on the part of Government personnel. The ratifying-official must also find that the contractor relied on the apparent authority of the officer or employee making the unauthorized commitment.

c. The decision as to what relief, if any, is dependent upon the facts presented and the application of the law to those facts. A complete and well-documented file is required to taking any action on such claims.

d. The organization/unit responsible for the unauthorized commitment will take the action required for ratification.

3. Action

a. Originating Organization/Unit

(1) It is the responsibility of the originating organization to develop the necessary factual background and provide a comprehensive package to support the granting of relief. Claims can only be paid if supported by information and documentary evidence as provided by the originating unit. Payment of the unauthorized commitment will be made only if all documentation, upon receipt and review by the Western Area Council Office (WACO) and ratification by the Director of the Regional Contracting Office, establishes a liability for payment on the part of the Government. Documentation is required as follows:

(a) A statement signed by the military or civilian employee who made the commitment, describing:

1. Why normal procedures were not followed.

2. What bona fide government requirement necessitated the commitment.

3. Whether any benefit was received.

4. Its value.

5. Any other pertinent facts.

(b) All orders, invoices or other documentary evidence of the transaction. The requisition is to contain a purchase description and cite funds were available at the time of the unauthorized commitment.

(c) An invoice describing the supplies or services provided.

(d) A determination that the amount claimed by the supplier is fair and reasonable and documentation supporting the basis for that determination. Proof submitted in determination may include the following:

1. Evidence of the price paid for identical or similar services or goods currently or in the past.

2. Proof of established market prices (i.e., evidence that other suppliers provide the same service or supplies at comparable costs.

3. Proof of established catalog prices that are charged to the general public

4. A cost analysis that breaks down the price charged to labor, material and profit components

(e) The Commanding Officer's endorsement concurring that the commitment should be ratified:

1. Verifies the accuracy and completeness of the documentation.

2. Describes the measures taken to prevent a recurrence of unauthorized commitments.

3. Provides a complete purchase description and funding for the ratifying contract.

(2) If the Commanding Officer of the originating activity concurs the commitment should be ratified, then a personally signed letter shall be prepared and included in the documentation. Information is required as follows:

(a) The Commanding Officer shall verify the accuracy and completeness of the documentation.

(b) The Commanding Officer shall describe the measures taken to prevent a recurrence of unauthorized commitments.

(3) All documentation is then forwarded to the Station Commanding Officer for determination and findings. It is the responsibility of the originating activity to develop and provide the necessary documentation so that proper processing may be accomplished. Processing and claim payment can be delayed if the documentation package is not complete.

(4) The Station S-4 Contracting Officer will receive the complete unauthorized commitment package from the Station Commanding Officer. When determined that all information is

provided and valid the package will be forwarded to WACO. After evaluation of the claim and found to be legally sufficient, the package will be forwarded to the Director of the Regional Contracting Office. The Director of the Regional Contracting Office will, when appropriate, ratify the claim administratively. Once the Station S-4 Contracting Officer receives the approved ratification package from the Director, Regional Contracting Office, the requisition will be processed and payment made.

MARK E. CONDRA

DISTRIBUTION: B plus 3KG (15)