



# National Archives and Records Administration

Office of Inspector General

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Date : March 24, 2010

Reply to : Office of Inspector General (OIG)

Subject : Management Letter No. 10-08, Award Fee Program for the Electronic Records Archives  
Development Contract

To: David S. Ferriero, Archivist of the United States (N)

The purpose of this Management Letter (ML) is to follow-up on ML No. 09-08 "Award Fee Program for the Electronic Records Archives (ERA) Development Contract," dated January 15, 2009. We reviewed the Action Plan submitted by the Acting Archivist, dated February 24, 2009, and attempted to determine whether appropriate actions had been taken to address problems with the ERA award fee program. Unfortunately, the ERA award fee program is still not functioning in an efficient and effective manner. Many of the problems identified over a year ago still plague our agency's largest contract, and the changes indicated in the Action Plan have not been adopted. The conditions discussed in this report once again combine to create a lack of transparency and accountability in the ERA program.

The ERA is NARA's most important and technologically advanced information technology program. Representing hundreds of millions of tax-payer dollars, the ERA is NARA's solution to the exponentially expanding problems, and opportunities, associated with electronic records. For this seminal program, the agency awarded a multi-year, multi-increment, cost-plus-award-fee (CPAF) contract to the Lockheed Martin Corporation (LMC). In a CPAF contract the government is given one primary vehicle to motivate the contractor to provide an excellent work product, the payment of a bonus based on the government's subjective evaluation of contractor performance. Therefore, the Award Fee is the government's main opportunity to provide direct incentives to the contractor. NARA's continued lack of diligence in addressing the Award Fee Program is disturbing and must be corrected, or the ERA could be put at risk of increased cost and decreased value to our shareholders.

After the issuance of ML No. 09-08, National Archives and Records Administration (NARA) management formulated an Action Plan declaring a new Award Fee Plan would be finalized in June of 2009. However, as of March 10, 2010, no new Award Fee Plan had been implemented. Further, there are issues with the process the ERA office has used to pay award fees for Increment 2 of the ERA contract, the development of the Executive Office of the President (EOP) instance of ERA. Management Letter No. 09-08 focused exclusively on Increment 1 of the ERA contract. For this management letter we reviewed the three six-month award fee periods (periods 5, 6 and 7) for LMC's work on Increment 2 against the existing Award Fee Plan, and once again found several issues of concern.<sup>1</sup> Significantly, for periods 5 and 6 the ERA office was not following the plan by keeping appropriate written records of their decisions. Despite the fact over \$2 million was paid out as bonuses in these periods, NARA had not documented their decisions or evaluations as required. In fact, critical documentation was not prepared until the OIG requested it.

<sup>1</sup> Periods 5 and 6 covered the time frame from September 7, 2007 to September 8, 2008. However, neither fee was finalized until December of 2008, so they were not considered in Management Letter 09-08. Period 7 covered the time frame from September 10, 2008 to March, 31 2009, and the fee was finalized in March of 2010. No other award fees have been paid.

The Award Fee Plan requires NARA experts to evaluate LMC in 37 categories called "performance aspects." These ratings are to be evaluated by NARA's Performance Evaluation Board, which is supposed to produce a report, called the Performance Evaluation Board Report (PEBR), to the Program Director (PD) and Contracting Officer (CO). The PD and CO were supposed to consider the PEBR and then make a final decision in an Award Fee Determination Report (AFDR). We discovered that for periods 5 and 6, the ERA office never produced written evaluations of the performance aspects, a PEBR or an AFDR before paying the award fees.

Furthermore, once reviewed, the reports produced for the OIG were found to be both inconsistent with the requirements of the plan, and inconsistent in content. Numbers and ratings did not flow from the actual evaluations through to the AFDRs. Several performance aspects were simply left out and unevaluated; while some performance aspects were paid for even when the justification indicated they were not directly applicable to the work in these periods. In the justification section for one performance aspect it explains how the "poor rating was upgraded to satisfactory." However, in the rating section the rating was listed as "Good." This is significant because the Award Fee Plan specifically states "satisfactory or below performance will not be rewarded." In the "System Development" performance aspect NARA expressed concerns about the code quality on the project and LMC's "ad-hoc process" for addressing it. However, this same aspect was rated as "Outstanding" to be paid out at 100%. Further, the written performance aspect evaluations were nearly verbatim between the two periods, with only nine new sentences in the entire 16-page report for the second period. For one performance aspect, the justification narrative did not change at all, but the score increased from 80% to 100%. Based upon the issues with the documentation provided, we are unable to perform an effective review of the process for determining award fees paid for periods 5 and 6.

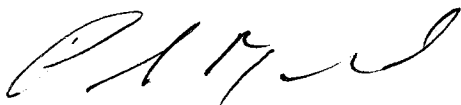
The period 7 award fee is the only fee evaluated and paid after NARA issued their Action Plan. Upon reviewing the period 7 documentation several issues were evident. NARA continues to be late in evaluating and paying LMC; the period 7 fee was finalized approximately one year after the period closed. Untimely payments may affect the effectiveness of the program to provide the proper incentive. NARA also still does not evaluate the final deliverable of the contract increment. According to the Award Fee Plan, "The second part of the award fee evaluation is based on the success of the specific Increments' final system delivery ...; thus, the evaluation and award fee determination is six months after the delivery of the increment (i.e., six months after Initial Operational Capability)." By ignoring this part of the Award Fee Plan and neglecting to evaluate the final deliverable as a whole (i.e. the EOP instance), NARA significantly dilutes the incentive to produce an outstanding deliverable.

Additionally, the period 7 fee documentation has several of the same issues as mentioned above. The scores and percentages do not track from one report to the next. Some performance aspects were not evaluated or mentioned at all, including "Integration and Test" and "Acceptance Test Support." The "Subcontract Management" aspect states the contractor did not meet the small/small-disadvantaged business subcontracting goals, but was rated as "Very Good." The award fee plan has "does not meet small business goals" as part of the criteria for a "Poor/Unsatisfactory" rating; and for a "Good" rating lists part of the criteria as "Small business goals have been exceeded by 5%." Code quality continued to be a concern as in the last two periods. NARA reported the contractor continued to use an ad-hoc process for addressing code quality, reviewed several problems with retroactively fixing non-conforming code, and stated the contractor "should acknowledge the reality that code quality has to be instituted and strived from the beginning." However, NARA still rated the relevant performance aspect as "Very Good."

Under the Award Fee Plan the ERA Program Director (PD) is the final authority for determining the amount of the award fee. As such, the PD has the ability to take the recommendations of the PEBR and deviate by either increasing or decreasing the award fee. For all three of the reviewed periods in this letter the PD used their ability to approve greater award fees than recommended by the Performance Evaluation Board. These additional fees totaled approximately \$805,000. According to the Award Fee Plan, the "determination of the amount of award fee earned and the basis for this determination will be stated in the Award Fee Determination Report (AFDR)" which would then be sent to LMC. The PD did not follow this, and no period's AFDR matches the award fee paid. It appears the AFDRs were prepared prior to the PD making a final decision (and at least in one case, prior even to the preparation of the Performance Evaluation Board Report). However, the PD did document his decisions in memos to the CO. In these memos the PD criticized NARA's award fee plan for not being "more in line with important program requirements," and recommended paying greater award fees by citing some specific examples and explaining the PD felt the contractor's performance as a whole was greater than the sum of its parts. We believe that if the PD decides to deviate from the documented observations and recommendations developed under the Award Fee Plan, then a more robust explanation of this deviation is necessary, as envisioned in the AFDR. A more full and transparent, public explanation of such unitary decisions by the PD would build confidence in the system and protect NARA from any potential allegations of untoward conduct.

Further, these memos by the PD span three award fee periods, accounting for 18 months of work, and they all call for a re-writing of the Award Fee Plan. At no time during these three periods did NARA exercise its right to unilaterally change the Award Fee Plan.<sup>2</sup>

While it is impossible to say with certainty what effect all of these issues have had on the ERA program, it arguably may have led to decreased performance incentives and higher costs to NARA. It should be noted the ERA program has a new PD and a new CO, and the contents of this letter have been discussed with them. We are encouraged by their initial feedback and look forward to working with them in the future. By May 1, 2010, please submit an action plan to the OIG describing how you plan to address the issues discussed in this management letter. If you have any questions, or require additional information pertaining to the ERA award fee program, please do not hesitate to contact me.



Paul Brachfeld  
Inspector General

cc:  
NH (M. Morphy)

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<sup>2</sup> A unilateral change by NARA may be done by written notice 30 days before the beginning of an award period.