

Naval Audit Service



Audit Report



Navy Marine Corps Intranet Contract Performance Measures for Incentive Payments

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N2009-0017
11 February 2009

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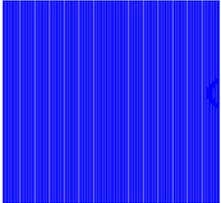
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DEPARTMENT OF THE NAVY
NAVAL AUDIT SERVICE
1006 BEATTY PLACE SE
WASHINGTON NAVY YARD, DC 20374-5005

7510
N2007-NFA000-0039
11 Feb 09

MEMORANDUM FOR PROGRAM MANAGER, NAVY MARINE CORPS INTRANET

**Subj: NAVY MARINE CORPS INTRANET CONTRACT
PERFORMANCE MEASURES FOR INCENTIVE
PAYMENTS (AUDIT REPORT N2009-0017)**

Ref: (a) NAVAUDSVC memo N2007-NFA000-0039, dated 28 Aug 07
(b) SECNAV Instruction 7510.7F, "Department of the Navy Internal Audit"

Encl: (1) Status of Recommendations
(2) Incentive Payment Contract Provisions
(3) Management Response from Program Executive Officer Enterprise Information Systems
(4) Revised Management Response to Recommendation 1 from Program Executive Officer Enterprise Information Systems

1. **Introduction.** We have completed the subject audit announced by reference (a). Paragraph 6 provides audit results, and paragraph 8 provides our recommendations, summarized management responses, and our comments on the responses. Enclosure (1) provides the status of the recommendations. The full text of the management responses is included in Enclosure (3). Enclosure (4) provides management's revised response to Recommendation 1.

Our audit found that although 33 of 40 incentive payments made from October 2000 through September 2007 were justified, there was insufficient documentation to support and justify 7 of the payments, valued at about \$15.3 million. To address the conditions found, Recommendations 1 and 2 were addressed to the Program Manager, Navy Marine Corps Intranet (NMCI). The current Program Manager, NMCI was not in place at the time of these incentive payments.

2. Reason for Audit.

a. The audit objectives were to verify that: (1) the NMCI process, procedures, and performance measurement criteria used for evaluating NMCI contractor performance for incentive payments are appropriate; and (2) the incentive payments made are justified and adequately supported.

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b. This audit was performed because the NMCI program is a high-risk information technology program (identified in the Fiscal Year (FY) 2007 Department of the Navy (DON) Risk Assessment) that may be vulnerable to fraud, waste, and abuse.

3. Background.

a. The NMCI contract is a long-term contractual arrangement to deliver comprehensive, end-to-end information services through a common computing environment. The program is managed by the Program Manager, NMCI, who reports to the Program Executive Office Enterprise Information Systems (PEO EIS) under the Assistant Secretary of the Navy (Research, Development, and Acquisition) (ASN (RDA)). This multiyear services contract was initially awarded on 6 October 2000, for a base period of 5 years with an option for an additional 3 years. The total contract minimum was \$6.9 billion. This contract was amended 30 October 2002 to extend the base period to 7 years. On 24 March 2006, DON exercised its option and extended the NMCI contract to September 2010, adding more than \$3 billion to the program's total contract value.

b. In addition to paying a fixed price for each workstation or laptop (otherwise known as a "seat") throughout the life of the contract, DON pays the NMCI contractor incentive payments for completing Program Milestones (a "one time payment") and for exceptional performance in the areas of customer satisfaction, enterprise-level performance, information assurance (IA), small business and Indian-owned enterprises participation, and technology refresh. The enterprise level performance and technology refresh incentive payments were added in subsequent modifications to the original contract.

c. An Incentive Review Board (IRB), appointed by the Director (now Program Manager), NMCI, monitors evaluation of the NMCI contractor's performance, considers all information from pertinent sources, and recommends the earned incentive amount. The Incentive Determining Official (IDO) reviews the recommendation(s) of the IRB, considers all pertinent data, and determines the earned incentive for each evaluation period. Once the approved incentive payment amount is determined, the Procuring Contracting Officer (PCO) issues a task/delivery order under the NMCI contract to authorize payment to the contractor.

d. The NMCI contract is funded by Operation and Maintenance, Navy funds, an annual appropriation available for obligation only during the fiscal year appropriated, after which authority to obligate the funds expires. Incentive payment provisions, as defined in the NMCI contract, are presented in Enclosure (2).

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e. The Naval Audit Service held eight meetings with the NMCI Program Management Office and discussed the status of the audit results as they developed. On 7 February 2008, we held our first official meeting with the NMCI Program Management Office to discuss the potential audit findings; additional meetings were held on 12 and 27 February 2008, and 7 and 9 October 2008. We also met with the command during the survey phase and briefed them on the audit results at that time.

4. Pertinent Guidance.

a. Federal Acquisition Regulation (FAR) Section 16.402-2 provides that performance incentives may be considered in connection with specific product characteristics or other specific elements of the contractor's performance. These incentives should be designed to relate profit or fee to results achieved by the contractor, compared with specified targets. It further provides that to the maximum extent practicable, positive and negative performance incentives shall be considered in connection with service contracts for performance of objectively measurable tasks when quality of performance is critical.

b. Section 6.14 of the NMCI contract states that eligibility and award of any incentive shall be determined solely on the basis of whether the NMCI contractor achieves the criteria for the applicable incentive. The contract provides that all awarded incentives will be provided through unilateral contract modifications made via task order by the Government within ten (10) days of its determination.

5. Scope and Methodology.

a. Our audit covered all incentive payments made to the NMCI contractor since 6 October 2000 (inception of the NMCI contract) through 25 September 2007, which amounted to about \$156 million. The majority of the audit work was performed at the NMCI Program Manager's Office in Arlington, VA. Other activities visited were:

- DON Chief Information Officer, Arlington, VA
- PEO EIS, Arlington, VA
- Space and Naval Warfare Systems Command (SPAWAR), San Diego, CA
- Headquarters, Commandant of the Marine Corps (C4), Arlington, VA

We also contacted ASN (RD&A) in Washington, DC. We performed this audit between 4 September 2007 and 13 November 2008.

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b. We reviewed the NMCI contract documents (which included the basic contract, major contract modifications, task orders, contractor's requests for incentive payments, IRB and IDO reports, and performance data) as they relate to incentive payments. The process and criteria used to measure the NMCI contractor's performance and overall entitlement to incentives were assessed. We also searched the e-Marketplace (online database) maintained by the NMCI contractor, and obtained some incentive payment information.

c. The audit was conducted in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

d. We identified no previous reports that involved performance measures for NMCI Incentive Payments.

6. Audit Results.

a. The NMCI Program Manager's Office has made 40 incentive payments totaling approximately \$156 million from October 2000 through 25 September 2007. The processes, procedures, and performance measurement criteria¹ used for evaluating NMCI contractor performance for incentive payments were appropriate. Also, we found that the NMCI Program Office maintained sufficient documentation to justify and support 33 of the 40 incentive payments, totaling approximately \$140 million.² However, the NMCI Program Office did not maintain sufficient documentation to support and justify 7 of the 40 incentive payments totaling approximately \$15.3 million. Specifically, we found insufficient supporting documentation for the one-time Payment incentive of \$10 million paid in September 2006 (29 September 2006), and five Customer Satisfaction for End Users incentive payments paid between 27 December 2005 and 5 July 2007, totaling \$3.3 million. In addition, we identified one questionable IA incentive payment of \$2 million paid in FY 2003. These conditions were due to insufficient oversight and management of the NMCI contract by the NMCI Program Office during the prior years, and inadequate documentation. As a result, there is no assurance that the NMCI contractor met the criteria for earning the applicable incentives. The results of our analysis are shown in Figure 1.

¹ The applicable criteria is the NMCI contract and FAR Section 16.402-2.

² These payments were related to incentives for Customer Satisfaction (for Commanders and Network Operations Leaders), Enterprise-Level Performance, Small and Small Disadvantaged Business Participation, and Indian Organizations and Indian-Owned Enterprises.

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Incentive Type	Total Incentive Payments		Not Adequately Supported	
	Number of Payments	Dollar Amount	Number of Payments	Dollar Amount
One-Time Payment	1	\$10,000,000	1	\$10,000,000
Customer Satisfaction				
- End Users	5	\$3,324,789	5	\$3,324,789
- Commanders	4	\$5,898,837		
- Network Operations Leaders	2	\$3,106,694		
Subtotal	11	\$12,330,320		
Enterprise-Level Performance	5	\$109,963,896	0	\$0
IA	8	\$15,097,500	1	\$2,000,000
Small and Small Disadvantaged Business Participation	13	\$8,125,000	0	\$0
Indian Organizations and Indian-Owned Enterprises	2	\$207,034	0	\$0
Technology Refresh	0	\$0	0	\$0
Totals	40	\$155,723,750	7	\$15,324,789

Figure 1. NMCI Incentive Payments.

b. **One-Time Payment Incentive.** Section 6.14.1 of the NMCI contract provides for a one-time payment of \$10 million to the NMCI contractor for completion of Program Milestones and critical issues as verified by the Government against contractual specifications, as noted in Enclosure (2). Task order NS99 was issued 29 September 2006, and authorized payment of the \$10 million. The NMCI Program Office did not maintain sufficient documentation to justify and support the one-time payment incentive of \$10 million. At the time of our review, the only available documentation supporting this incentive payment were: (1) a series of PowerPoint slides presented jointly by the NMCI contractor and the program office personnel to demonstrate that they completed the 12 critical issues and milestones; and (2) a memorandum from the Program Manager to the PCO authorizing payment of the \$10 million. There was no documentation available to support whether the Navy verified that the NMCI contractor achieved and met the criteria for this one-time Payment incentive.

c. **IA Incentive.** Section 6.14.3 of the NMCI contract provides that the maximum for this incentive is \$10 million per Program Year. The specific amount is determined through an IRB recommendation. At the end of each 6-month evaluation period

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(2) As of 5 July 2007, 11 customer satisfaction incentive payments, totaling about \$12 million, were made to the NMCI contractor. Of that amount, five payments, totaling approximately \$3.3 million, that applied to End User incentives, were not properly supported and justified. These five payments were made between 27 December 2005 and 5 July 2007. Our review disclosed that, while the review process was adequate, insufficient written supporting documentation existed at the time of our review to show that the NMCI Program Office verified End User survey results generated by the NMCI contractor. As a result, there is no assurance that the NMCI contractor met the criteria for the five questioned incentive payments.

7. **Summary.** Overall, the NMCI process, procedures, and performance measurement criteria used for evaluating NMCI contractor performance for incentive payments were appropriate. However, some incentive payments were not adequately documented as noted above. As a result, there is no assurance that the NMCI contractor met the criteria for the applicable incentives and was entitled to the payments of approximately \$15.3 million. Inadequate record keeping and oversight by the NMCI Program Office contributed to these conditions.

8. **Recommendations.** We recommend that the Program Manager, NMCI:

Recommendation 1. Establish and implement procedures and provide oversight to ensure that incentive payments to the NMCI contractor are fully justified and properly supported by documentary evidence.

PEO EIS response to Recommendation 1. Concur. The Program Manager, NMCI will review existing established procedures, revise as necessary, and provide oversight to ensure any incentive payments to the NMCI contractor are fully justified, properly supported and documented. The completion date for this action is 16 February 2009.

Recommendation 2. Review the insufficiently supported incentive payments identified in this report, attempt to determine if payments were justified, and initiate actions to recoup any overpayments made to the NMCI contractor; if any overpayments are recouped, report back to Naval Audit Service the amount recouped.

PEO EIS response to Recommendation 2. Concur. The Program Manager, NMCI has been directed to review the incentive payments identified in reference (a) and to report findings to PEO EIS no later than 16 February 2009. Any amounts subject to recoupment will be reported to the Naval Audit Service along with the results of the recoupment effort.

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Naval Audit Service comment on responses to Recommendations 1 and 2.
Actions planned meet the intent of the recommendations.

9. Actions planned by PEO EIS and the Program Manager, NMCI meet the intent of Recommendations 1 and 2. The recommendations are considered open pending completion of the planned corrective actions, and are subject to monitoring in accordance with reference (b). Management should provide a written status report on the recommendation within 30 days after target completion dates. Please provide all correspondence to the Assistant Auditor General for Financial Management and Comptroller Audits, [REDACTED], with a copy to the Director, Policy and Oversight, [REDACTED]. Please submit correspondence in electronic format (Microsoft Word or Adobe Acrobat file), and ensure that it is on letterhead and includes a scanned signature.

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10. Any requests for this report under the Freedom of Information Act must be approved by the Auditor General of the Navy as required by reference (b). This audit report is also subject to follow-up in accordance with reference (b).

11. We appreciate the cooperation and courtesies extended to our auditors.

[REDACTED]

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(b)(6)

[REDACTED]
Assistant Auditor General
Financial Management and Comptroller
Audits

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Enclosure 1

Status of Recommendations and Funds Potentially Available for Other Use

RECOMMENDATIONS							FUNDS POTENTIALLY AVAILABLE (In \$000s)				
Finding ³	Rec. No.	Page No.	Subject	Status ⁴	Action Command	Target or Actual Completion Date	Category ⁵	Claimed Amount	Agreed To	Not Agreed To	Appropriation ⁶
1	1	8	Establish and implement procedures and provide oversight to ensure that incentive payments to the NMCI contractor are fully justified and properly supported by documentary evidence.	O	Program Manager, NMCI	2/16/2009					
1	2	8	Review the insufficiently supported incentive payments identified in this report, attempt to determine if payments were justified, and initiate actions to recoup any overpayments made to the NMCI contractor; if any overpayments are recouped, report back to Naval Audit Service the amount recouped.	O	Program Manager, NMCI	2/16/2009	C				

³ / + = Indicates repeat finding

⁴ / O = Recommendation is open with agreed-to corrective actions; C = Recommendation is closed with all action completed; U = Recommendation is undecided with resolution efforts in progress

⁵ / A = One-time potential funds put to other use; B = Recurring potential funds put to other use for up to 6 years; C = Indeterminable/immeasurable

⁶ / = Includes appropriation (and subhead if known)

Incentive Payment Contract Provisions

Navy Marine Corps Intranet (NMCI) Contract Section 6.14.1 One Time Payment

“Upon the earlier of (a) the completion of the Program Milestones, as verified by the Government against the contractual specifications, provided in the twelve issues described in the document entitled “Critical Issues Status Update” presented to the Government on July 27, 2005 and the Program Milestones for Very Small Site Design sites presented to the Government on August 12, 2005, both of which are currently jointly managed through Integrated Product Teams (“IPTs”) (the “Critical Issues Milestones”), or (b) September 30, 2006, if the failure to complete or deliver such Critical Issues Milestones is not solely NMCI contractor’s fault, the Navy Marine Corps Intranet (NMCI) contractor shall receive a one-time payment of \$10 million. In the event that any modification to the Contract changes the scope of the deliverable called for in a Critical Issues Milestone, the requirements as set forth in the contract modification shall control.”

Section 6.14.2 Customer Satisfaction

“The Government will pay the NMCI contractor incentives for achieving certain levels of customer satisfaction. The incentives for achieving customer satisfaction are determined using the statistical approach or survey methodology described in section 6.13 and the measurement approach in Section 6.14.2.1 or 6.14.2.2.

“6.14.2.1 END USERS

“The amount, if any, of the customer satisfaction incentive as it relates to End Users will be determined for each quarter of a Program Year (PY) (i.e., October through December, January through March, April through June and July through September).

“(a) If customer satisfaction is rated either above the average or above the mid point, as applicable, by more than 85 percent of the responding End Users in a Navy Claimant or United States Marine Corps (USMC) Major Command, then the Government will pay the NMCI contractor \$12.50 for each data seat in that Navy Claimant or USMC Major Command which has attained full performance under subparagraph 5.9.2.3.2.2;

“(b) If customer satisfaction is rated either above the average or above the mid point, as applicable, by more than 90 percent of the responding End Users in a Navy Claimant or USMC Major Command, then the Government will pay the NMCI contractor \$25 for each data seat in that Navy Claimant or USMC Major Command which has attained full performance under subparagraph 5.9.2.3.2.2; and

“(c) if customer satisfaction is rated either above the average or above the mid point, as applicable, by more than 95 percent of the responding End Users in a Navy Claimant or USMC Major Command, then the Government will pay the NMCI contractor \$50 for each data seat in that Navy Claimant or USMC Major Command which has attained full performance under subparagraph 5.9.2.3.2.2. The incentive described in this paragraph (c) and the corresponding incentive amount shall be replaced with the incentive described in subparagraph 6.14.2.2 upon the implementation of such replacement incentive.

“6.14.2.2 COMMANDERS AND NETWORK OPERATIONS LEADERS

“Upon agreement by the Government and the NMCI contractor to the survey methodology identified in section 6.13, the Government will administer the survey and determine the N00024-00-D-6000 Conformed Contract P00234 allocation of the incentives, as described below. The allocations of the incentives earned, if any, are determined semi-annually, as described below.

“(a) Prior to the beginning of each 6 month period (i.e., October through March and April through September), the Government determines the percentage of the total available incentive that will be allocated for achieving customer satisfaction objectives for the Navy Echelon II/Marine Corps Major Command Commanders. The balance of this incentive is allocated for achieving customer satisfaction objectives for the Network Operations Leaders;

“(b) The total amount of the incentive available under this subparagraph 6.14.2.2 for any 6 month period is \$50 for each data seat which has attained full performance under subparagraph 5.9.2.3.2.2;

“(c) If the NMCI contractor meets the customer satisfaction objectives for the Navy Echelon II/Marine Corps Major Command Commanders, then the Government pays the NMCI contractor the percentage (as allocated under Paragraph (a)) of the total incentive available (determined under Paragraph (b)); and

“(d) If the NMCI contractor meets the customer satisfaction objectives for the Network Operations Leaders, then the Government pays the NMCI contractor the percentage (as allocated under Paragraph (a)) of the total incentive available (determined under Paragraph (b)).

“6.14.2.3 ENTERPRISE LEVEL PERFORMANCE INCENTIVE

“For PY06 through PY10, the NMCI contractor is eligible to earn an Enterprise Level Performance Incentive for meeting the objective Enterprise Level Measures. The performance measures, deliverables, weights and measurement criteria for the PY06 Enterprise Level Performance Incentive are set forth in Attachment 17. For PY06, the Enterprise-Level Performance Incentive amount available to be earned is \$68 million.

For PY07 through PY10, the Enterprise-Level Performance Incentive amount(s) are calculated as \$200.00 times the number of data seats on order as of 1 October of the applicable PY. The parties determine and reconcile the number of seats on order as of 1 October by 31 October of that PY. All changes to the Enterprise-Level Measures (other than administrative changes, such as changes to the composition of the Incentive Fee Review Board) shall be in writing and mutually agreed to by the Parties. Incentive fees earned under the Enterprise-Level Measures are in addition to any of the other incentives that NMCI contractor may earn under section 6.14, Incentives. The Government will assess the NMCI contractor's performance against the Enterprise Level Measures three times per PY. Unearned portions of the Enterprise Level Incentive Pool shall not be automatically rolled forward to the next evaluation period, but shall remain available to be earned by the NMCI contractor through the end of the then-current PY, either for addition of new performance measures or for reallocation of incentive fee amounts among the existing measures. The Government and the NMCI contractor shall negotiate and develop new Enterprise Level Measures prior to commencement of each PY. In the event the Government and the NMCI contractor are unable to establish new Enterprise Level Measures for a PY, that portion of the total Enterprise Level pool that would have been available under this subparagraph 6.14.2.3 shall be reallocated to and increase the survey based incentive pool discussed in subparagraphs 6.14.2.1 and 6.14.2.2.”

Section 6.14.3 Information Assurance

“Actions necessary to assure security of information will change as new attack methods are developed or network weaknesses discovered. In order to focus continued high level attention on information assurance, the Government will perform unannounced information warfare on the NMCI network and reward performance against such attacks. The maximum for this incentive is \$10 million per PY. The specific amount will be determined through an Incentive Review Board. At the end of each six-month evaluation period, the NMCI contractor shall submit data that supports its proposed incentive amount (not to exceed \$5 million) for that period.”

Section 6.14.4 Small and Small Disadvantaged Business Participation

“This incentive is to encourage continued small and small disadvantaged business participation at a level higher than the level of 40 percent over all and 10 percent subcontracted to the First Tier as stated in the approved subcontracting plan now included as a material part of this contract. Beginning six months after contract award, the Contractor shall submit data for the previous six month period showing actual amounts of subcontracted dollars to small and small disadvantaged businesses. If the amount exceeds the level stated in the approved subcontracting plan, an incentive up to \$625,000 will be determined through an Incentive Board, as shown below. The maximum for this incentive is \$1.25M/year.

Section 6.14.6 Utilization of Indian Organizations and Indian-Owned Economic Enterprises

“The Department of Defense Indian Incentive Program provides opportunities to Indian organizations and Indian-owned economic enterprises. The incentive program encourages the use of Indian organizations and Indian-owned economic enterprises by allowing for payment to the NMCI contractor of 5 percent of the amount subcontracted to an Indian organization or Indian-owned economic enterprise at any sub-tier. The NMCI contractor shall submit data showing the actual dollar amounts subcontracted to Indian owned economic enterprises, for each six month period of time (the periods of time are October through March and April through September) during the life of the contract. Once NMCI contract performance is completed and/or the contract is closed, additional incentive requests cannot be filed. The incentive award will not exceed 5 percent of the amount subcontracted to an Indian organization or Indian owned economic enterprise at any sub-tier.”

Section 6.14.7 TECHNOLOGY REFRESH CREDIT/INCENTIVE

“Beginning in PY 2007, there may be a credit or incentive of \$5.00 per seat per quarter assessed for each seat which was refreshed in advance of, or subsequent to, its scheduled technology refresh date. If, in any quarter, the number of data seats scheduled for refresh exceeds the number of data seats actually refreshed, the NMCI contractor shall pay the Government a credit in an amount equal to \$5.00 times the difference. If, in any quarter, the number of data seats actually refreshed exceeds the number of data seats scheduled for refresh, the Government shall pay the NMCI contractor an incentive in an amount equal to \$5.00 times the difference. If, in any quarter, seats are not refreshed in that quarter due to actions or inactions of the Government, those seats will be deducted from the number of seats scheduled for refresh for that quarter. The credits, if any, shall be deducted from any incentives earned under section 6.14 and there shall be no right to deduct against invoices for services (but this shall not preclude deduction from the invoice for an incentive earned). If, at the time of application of the credit, either no such incentives have been earned or the credit exceeds the incentives earned, the NMCI contractor shall provide either new service (i.e., services other than those being provided under the contract at the time of the credit) that can be completed within the current fiscal year or a remittance to the United States Treasury (this remittance applies only to the last month in each fiscal year or if the proposed new services cannot be completed within the current fiscal year) in an amount equal to the credit or excess thereof, as applicable. Incentives, if any, will be provided through unilateral contract modifications made by the Government within 30 days of the end of each quarter.”

Enclosure 3:

Management Response from Program Executive Officer Enterprise Information Systems



DEPARTMENT OF THE NAVY
PROGRAM EXECUTIVE OFFICER
ENTERPRISE INFORMATION SYSTEMS (PEO-EIS)
2451 CRYSTAL DRIVE, SUITE 1139
ARLINGTON, VA 22202

7510
Ser PEO-EIS/00098
10 Dec 08

MEMORANDUM FOR NAVAL AUDIT SERVICE

Subj: NAVY MARINE CORPS INTRANET CONTRACT PERFORMANCE MEASURES
FOR INCENTIVE PAYMENTS (N2007-NFA000-0039)

Ref: (a) NAVAUDSVC Revised Draft Audit Report N2007-NFA000-0039 dated
13 Nov 08

1. After review of reference (a), Program Executive Officer Enterprise Information Systems (PEO EIS) concurs with the Naval Audit Service recommendations. The Program Manager for the Navy Marine Corps Intranet (PM, NMCI) is taking the appropriate steps necessary to implement those recommendations as outlined below.

Recommendation 1: "Establish and implement procedures and provide oversight to ensure that incentive payments to the NMCI contractor are fully justified and properly supported by documentary evidence."

PEO EIS Comment: Concur. PM, NMCI has established audit procedures for the verification of contractor claims to end user satisfaction incentives.

Recommendation 2: "Review the insufficiently supported incentive payments identified in this report, attempt to determine if payments were justified, and initiate actions to recoup any overpayments made to the NMCI contractor; if any overpayments are recouped, report back to Naval Audit Service the amount recouped."

PEO EIS Comment: Concur. PM, NMCI has been directed to review the incentive payments identified in reference (a) and to report findings to PEO EIS no later than 16 February 2009. Any amounts subject to recoupment will be reported to the Naval Audit Service along with the results of the recoupment effort.

2. Certain information contained in reference (a) is protected by the "Attorney-Client" privilege and "Attorney Work-Product" privilege and therefore is exempt from release under the Freedom of Information Act, 5 U.S.C. 552(b)(5). Specifically, the information in paragraph 6.c.(2) was written by an attorney and is contained in an internal agency legal memorandum providing legal advice to agency officials. Public release of this information would undermine the ability of attorneys to provide candid legal advice in the future.

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The management response from Program Executive Office Enterprise Information Systems is not being treated in its entirety as "For Official Use Only (FOUO)." However, personally identifiable information in paragraph 3 and in the "copy to" list on the next page are being treated as FOUO and exempt from release under Exemption (b)(6) of the Freedom of Information Act.

Subj: NAVY MARINE CORPS INTRANET CONTRACT PERFORMANCE MEASURES
FOR INCENTIVE PAYMENTS (N2007-NFA000-0039)

3. Please address comments or concerns to [REDACTED]
[REDACTED]

[REDACTED]
Deputy PEO EIS

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Copy to:
Assistant Audit General for Financial Management and Audits,
[REDACTED]
Audit Director, [REDACTED]

Enclosure 4:

Revised Management Response to Recommendation 1 from Program Executive Officer Enterprise Information Systems



DEPARTMENT OF THE NAVY
PROGRAM EXECUTIVE OFFICER
ENTERPRISE INFORMATION SYSTEMS (PEO-EIS)
2451 CRYSTAL DRIVE, SUITE 1139
ARLINGTON, VA 22202

7510
Ser PEO-EIS/00001
16 Jan 09

MEMORANDUM FOR NAVAL AUDIT SERVICE

Subj: NAVY MARINE CORPS INTRANET CONTRACT PERFORMANCE MEASURES FOR INCENTIVE PAYMENTS (N2007-NFA000-0039)

Ref: (a) PEO EIS Letter Ser PEO-EIS/00098 dtd 10 Dec 08
(b) Phonecon between NAS Program Manager, and PM NMCI, Director of Operations of 14 Jan 09

1. Program Executive Officer Enterprise Information Systems (PEO EIS) concurred with the Naval Audit Service during reference (a) to revise it's response to reference (b) recommendation 1. The Program Manager for the Navy Marine Corps Intranet (PM, NMCI) is taking the appropriate steps necessary to implement Recommendation 1 as outlined below.

Recommendation 1: "Establish and implement procedures and provide oversight to ensure that incentive payments to the NMCI contractor are fully justified and properly supported by documentary evidence."

PEO EIS Comment: Concur. PM, NMCI will review existing established procedures, revise as necessary, and provide oversight to ensure any incentive payments to the NMCI contractor are fully justified, properly supported and documented. The completion date for this action is 16 February 2009.

2. Please address comments or concerns to [REDACTED]

[REDACTED]
DEPUTY PEO-EIS

Copy to:
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[REDACTED], [REDACTED]
Audit Director, [REDACTED]

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Enclosure (4)
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