

Private Contractors Still Lack Adequate Oversight

by David Isenberg



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The grim, continuing story of just how bad oversight and accountability are in the world of private military contracting received its latest confirmation June 10, when the congressionally mandated U.S. Commission on Wartime Contracting released its interim report, "At What Cost? Contingency Contracting in Iraq and Afghanistan."

The report found that "there is a critical shortage of qualified contract-management personnel in theater, and those that are there are stretched too thin. In particular, the process for designating and training contracting officer's representatives to check contractor performance in theater is broken."

To cite just three of the commission's numerous findings: Neither the military nor the federal civilian acquisition work forces have expanded to keep pace with recent years' enormous growth in the number and value of contingency contracts; contract auditors are not employed effectively in contingency contracting; and the government still lacks clear standards and policy on inherently governmental functions.

This shortcoming has immediate salience given the decisions to use contractors in armed security and life-support tasks for military units. One might feel better about this if it at least appeared that the military was learning from past mistakes, but there is little reason to think that is happening.

The commission noted, "As military units withdraw from bases, the number of contractor employees needed to handle closing or transfer tasks and to dispose of government property will increase. Strong government oversight will be required, but preparations for this major shift out of Iraq and into Afghanistan or other areas are sketchy."

This dismal state of affairs is compounded when one considers that many of these same conclusions were stated in the November 2007 report of the independent Commission on Army Acquisition and Program Management in Expeditionary Operations. Known as the Gansler report after the commission's chairman, Jacques Gansler, the report stated that significant failures were found in the Army's contracting and contract management.

Back then, the commission found that the expeditionary environment requires more trained and experienced military officers and noncommissioned officers. Yet, only 3 percent of Army contracting personnel are active-duty military, and there are no longer any Army contracting career general officer positions.

Not Prepared for Modern Challenges

The Army's acquisition work force is not adequately staffed, trained, structured or empowered to meet the needs of the 21st-century deployed war fighter.

Notwithstanding a sevenfold workload increase and greater complexity of contracting, the institutional Army is not supporting this key capability. There are nearly as many contractor personnel in the Kuwait, Iraq and Afghanistan theaters as there are U.S. military, yet the operational Army does not recognize the impact of contracting and contractors in expeditionary operations and on mission success.

If there has been one constant in the use of private military contractors over the years, predating the U.S. invasion of Iraq, it is that government oversight is woefully inadequate. Why that is remains a puzzle. By now, most of the major contracting processes have been in operation for decades.

The Logistics Civil Augmentation Program was established by the Army in 1985, and was first used officially in Somalia in December 1992.

The State Department's use of private security firms such as DynCorp or Blackwater (now Xe) through its Worldwide Personal Protective Services contract goes back to the aftermath of the bombing of the U.S. Embassy in Beirut in 1983.

The unpleasant truth is that until recently, the U.S. government simply was not prepared - and in some cases, not particularly interested - in doing oversight and holding contractors accountable. The numerous inefficiencies, especially in contract oversight, management and transparency, in the U.S. contracting process have been known for many years.

Since the release of the Gansler report, the Pentagon has taken steps to better prepare its forces to work with contractors, including expanding the jurisdiction of the Special Inspector General for Iraq Reconstruction, establishing the Office of the Special Inspector General for Afghanistan Reconstruction, requiring coordination among the Pentagon, State Department and the U.S. Agency for International Development on matters relating to contracting in Iraq and Afghanistan, and requiring the Comptroller General to review annually all contracts.

But insofar as contracting officer representatives (CORs) - the essential building blocks of oversight - are concerned, little has changed. Their experience and training remain limited, and the time they have available to devote to their oversight responsibilities for these contracts is insufficient.

The government still selects CORs with limited or no direct contract management experience, provides them on-the-job training, and then assigns them other principal duties, increasing the government's vulnerability.

It is unclear what can be done about this, besides training many more CORs and auditors. The Commission on Wartime Contracting will not release its final report with recommendations until next year.

Clearly, better planning is crucial. Military staffs should establish contracting planning cells to determine what is contracted, and establish the proper command authority before contracts are written, much less before contractors arrive in the field.

Better enforcement of existing laws is crucial. The best way to accomplish this is to target the bottom lines of private military contractors. If a for-profit company loses money as a result of its employees' behavior, it will have more incentive to ensure its employees perform according to contract.