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PRIVATIZED MILITARY OPERATIONS 2007

ABSTRACT: The Privatized Military Operations (PMO) industry has operated in conflict zones throughout history. Today, its use by the United States and its coalition partners in Iraq and Afghanistan is unprecedented, both in scope and sheer numbers. With the contractor headcount in theater nearly matching U.S. troop strength, the industry's use has outpaced regulatory, doctrinal and management practices. This paper assumes that the PMO industry will continue to be a force multiplier for the U.S. military and many of its allies and prescribes regulatory, doctrinal, and policy remedies to address shortcomings exposed in current operations.

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Washington, DC
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MPRI, Alexandria, VA
Office of the Deputy Secretary of Defense, Washington, DC
KBR, Alexandria, VA
SCG Security, Virginia Beach, VA
Blackwater USA, Moyock, NC
New York University Law School, New York, NY
International Peace Academy, New York, NY
United Nations Department of Peacekeeping Operations, New York, NY
Nellis AFB, NV
Creech AFB, NV
DynCorp International, Irving, TX
Central Technical Support Facility, PEO, C3T, U.S. Army, Fort Hood, TX

International

ANSYS Integrated Systems, Johannesburg, South Africa
Institute for Security Studies, Pretoria, South Africa
University of Stellenbosch, Stellenbosch, South Africa
Institute of Maritime Technology, Simon's Town, South Africa
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INTRODUCTION

Since the mid-1990s, the Department of Defense (DOD) increasingly has viewed contracted support as a “force multiplier” that supplements existing U.S. force structure capacity and capability. This approach, combined with a post-Cold War world that has experienced a proliferation of security, stability, and humanitarian contingencies, has resulted in a dramatic expansion of the DOD’s reliance on contracted support to supplement or fill resource gaps.

Services offered by Privatized Military Operations (PMO) companies provide DOD new and innovative opportunities to complement existing, and often strained or inaccessible, U.S. military forces. Leveraging a combination of outsourcing and privatization¹, the DOD has fielded combinations of contract and military support, or “hybrid forces,” to support multiple operations in recent years, while minimizing the strain on limited U.S. military forces.² As an unintended consequence, the DOD is migrating rapidly from simply using contract support to augment or fill gaps and increasingly is developing a growing dependency on contracted services and the PMO industry to fulfill tactical, operational and sometimes strategic needs.

The industry and the market it serves are global. PMO services range from training and logistics services; weapon maintenance and repair; security services; and in some cases, defensive military operations. Because the ongoing operations in Iraq and Afghanistan have brought some notoriety to the industry and have exposed issues related to the U.S. government’s (USG) ability to manage such a wide array of contracts and contractors in a conflict zone, this paper focuses primarily on issues related to the use of contracted services in support of U.S. expeditionary operations.

Although contracted military support is practically as old as war itself, it has not been deeply studied or understood as a practice. It is even less well understood as a formal industry segment. Participants in the market range from small boutique providers of unique services to Fortune 100 companies for whom PMO business is a minuscule portion of their annual revenue. Apart from a few dozen large, widely known industry participants, the bulk of the members of this industry are small, privately held companies whose annual revenue is less than \$8 million. Moreover, many market participants do not identify themselves as being part of the PMO industry. As a result, traditional industry analysis was not possible.

Research for this paper is based primarily on interviews with DOD officials, executives from companies engaged in PMO activities, and many of the limited number of subject matter experts dedicated to understanding the modern PMO phenomenon. From these interactions, the study team was able to define the modern PMO industry, discuss contemporary issues related to its current use, and make policy recommendations to address those issues.

¹ Outsourcing is the transfer of a support function previously performed by a government activity to a private service provider while the government retains the capacity to perform the transferred function. Privatization is a type of outsourcing involving the transfer of government functions and resources to the private sector as the government sheds the capacity to perform a function (Ryan, 2007, ICAF Acquisition Lesson #14, Slide #17).

² Recent examples of the use of hybrid forces include Military Professional Resources, Inc. (MPRI), a private U.S. firm working with the Croatian Ministry of Defense to professionalize its army in 1994 (Adams, 2003, p.57), and a 1998 DynCorp International contract to provide verification monitors in Kosovo (Adams, 2003, p.63).

THE INDUSTRY DEFINED

In 2006, the inaugural Industrial College of the Armed Forces PMO industry study attempted to define this complex sector of the broader services industry in a way that would enable a comprehensive analysis. The authors of the initial report concluded that the dynamically evolving industry was best scoped by a simple functional definition; “the PMO industry consists of firms performing functions by contract for the government in lieu of military or civil service employees” (Final Report, PMO Industry Study, 2006, p. 2). One year later, the industry’s evolution has not slowed and its complexity continues to challenge the development of a definitive construct for analysis. The 2006 definition, though helpful, is insufficient for analytical purposes.

Perhaps the most useful means for defining the PMO industry is Peter W. Singer’s pioneering mapping of its firms into three broad segments: military consultant firms, military provider firms, and military support firms (Singer, 2004, pp. 92-100). This paper will use the Singer construct as a starting point for analyzing the industry. This paper’s definition of the PMO industry differs slightly in terms of segmentation, but remains generally consistent with Singer’s construct. Accordingly, for the purposes of this study, the PMO industry includes three segments: military consulting, military security, and military logistics and support.³

- Military consulting firms provide services such as: training assistance (e.g. exercise planning and execution, distance learning and tactical instruction); planning assistance (e.g. doctrine development, planning, recruiting and testing); and technical assistance (e.g. linguistics, systems engineering and test and evaluation).
- Military security firms provide services such as: executive protection (e.g. bodyguards, and personal security detachments); physical security services (e.g. risk assessment, crisis management, intelligence gathering, interpreters and intelligence gathering support); and physical security (e.g. convoy escort, facility protection and monitoring services).
- Military logistics and support firms provide services such as: functional augmentation (e.g. fuel and materiel transport, subsistence services and sanitation services); base operations support (e.g. base or range operations, construction, general maintenance support and generator maintenance); and weapons support (e.g. depot and operational maintenance, acquisition logistics, in-theater support and field engineering).

The strength of Singer’s definition lies in its utility for capturing the breadth of the industry. Nearly all firms providing services in the PMO industry can be grouped into one of these three areas. Where the definition falters, however, is in its failure to account for the lack of clear and distinct definition between segment boundaries. Any effort to divide the industry into defined segments is constrained by the fact that the lines between PMO segments are blurred as many firms operate in multiple segments. Defining the industry is further challenged by the fact that many firms operating within the PMO industry also provide services outside the industry. For example, Blackwater USA, like several other firms, provides services in all three PMO segments, but also leverages its corporate capabilities to provide similar services to the law enforcement, non-DOD governmental, and non-governmental sectors.

³ These services can occur at any location, ranging from home station or supporting establishment to the front lines of an operational theater or contingency environment.

The PMO industry is still maturing, yet insights are readily available that will allow this report to help form the future course of this industry by analyzing its current state.⁴ For the purposes of this study, the authors narrowed the aperture of their analysis to those segments of the PMO industry providing contracted services in support of U.S. expeditionary operations.

CURRENT CONDITION

Although the use of private contractors in military engagements is as old as warfare itself, the industry that has emerged to satisfy modern demand is still evolving. The enhanced security demands following the September 11, 2001 terrorist attacks and the unprecedented use of contracted services in Iraq and Afghanistan attracted a plethora of new entrants to an already fragmented and diverse marketplace.

The International Peace Operations Association (IPOA), a trade association that represents PMO firms, noted that 40% of companies participating in its 2006 industry survey did not exist before 9/11 (IPOA, 2006, p. 8). Industry expansion is corroborated by the Center for Strategic and International Studies (CSIS), which noted that the professional services industrial base, to include the PMO industry, was stable in size for years before 2001, but has nearly doubled since 9/11 (CSIS, 2006, p. 18). An executive of an established industry firm calls the new entrants “post-9/11 companies” stating, “The towers fell and these companies are coming out of the woodwork trying to get government contracts” (Anonymous interview, March 8, 2007).

With thousands of current and potential participants, the PMO industry is highly fragmented. Other than a few obvious exceptions, such as Kellogg, Brown and Root (KBR), DynCorp International and Blackwater USA, the industry consists predominantly of small, privately held companies with annual revenues less than \$8 million (CSIS, 2006, p. 19). Indeed, CSIS notes that KBR, the Pentagon’s top services supplier in 2006, is the only company possessing a market share greater than 5%, based on prime DOD contract awards and that most firms win less than 1% of the services dollars spent by the DOD. However, the DOD spent \$113 billion on services (excluding research and development) in fiscal year (FY) 2006, making a 1% share worth more than \$1 billion. In comparison, the DOD spent \$66 billion in FY 2002 for contracted services (CSIS, 2006, p. 19).

As the industry expands to satisfy the DOD’s growing demand, it is also consolidating via mergers and acquisitions to create larger and more broadly capable firms. The current wave of consolidation is taking three distinct forms. First, small- and medium-sized firms are merging with rivals to strengthen their niche positions. Next, other PMO firms are acquiring companies in different PMO segments to diversify their offerings and customer base. Finally, and perhaps most significantly, large aerospace and defense contractors (e.g. Lockheed Martin, Northrop Grumman, L-3 Communications, etc.) are buying companies to strengthen their footholds in the global PMO market.

The ongoing expansion and consolidation of the industry reflects the attractiveness of the market and general health of the industry. The industry’s health also is reflected in company

⁴ It is important to recognize that the DOD cannot optimize privatization and outsourcing decisions for future military operations based solely on current U.S. operations in Iraq and Afghanistan. Future conflicts may require a different balance or mix of USG and contractor personnel and the capabilities they provide.

financial statements, which paint a picture of a rapidly growing, reasonably profitable industry. Although most firms in this industry are privately held, and thus are not compelled to provide financial data, some of the larger participants are publicly traded and can be used to illustrate the industry's health. KBR Inc., the former Halliburton subsidiary, was the single fastest growing federal contractor between 2000 and 2005 (US House of Representatives, 2006, p. ii). KBR is the sole prime contractor on the Army's Logistics Civil Augmentation Program III (LOGCAP), providing dining, laundry and other logistics services in Iraq. It was the Pentagon's largest services provider in FY 2006, winning 5.26% of all services contracts awarded. KBR's 2006 revenue was \$9.6 billion with an operating margin of 2.55%. Others, who operate in the more profitable segments of the PMO industry, reap higher margins. For instance, DynCorp International, which operates across the spectrum of PMO services, earned a 7.6% operating margin in 2006 and brought in \$1.95 billion in revenue, nearly tripling its 2001 sales. L-3 Communications' Government Services division, a major member of the PMO military consulting segment, posted the highest 2006 margins among this sample of companies at 8.9% on sales of \$3.8 billion. Prior to 2000, L-3 Communications was not a participant in the government services industry.

Industry growth reflects both the USG's mounting demand for contracted services, and the industry's ability to surge capacity and capability, as necessary. Pivotal to the government's policy choices related to its use of contractors in future engagements is its confidence in the industry's ability to efficiently reduce operations once the Iraq war bubble deflates and then reconstitute itself as a robust force multiplier if called upon elsewhere.

The impact of an eventual U.S. troop draw-down from Iraq will be felt unevenly across the PMO industry. In the military logistics arena, the demand for in-theater technical representatives to maintain and repair weapon systems will decline precipitously. However, those technicians likely will redeploy to assist in the ongoing program to reset war-worn equipment to optimal operating status -- an effort that is expected to cost billions and take more than 2 years to complete. This redeployment will create a lag effect that mitigates the negative impact of declining demand in the near term. Logistics activities under LOGCAP are unlikely to encounter a similar redeployment option. These activities will fall commensurate with the draw-down, with no obvious opportunities to offset the decline in business that today employs more than 50,000 persons in Iraq and Afghanistan. Significantly, many of these jobs do not require specialized training or knowledge, so it is reasonable to assume that replacement workers will be found in the event another ramp-up is required.

The military security sector will also be heavily impacted by the draw-down even though some of the estimated 35,000 private security professionals working in Iraq are likely to retain work with the Iraqi government or commercial firms rebuilding or operating in the country. However, many smaller firms established solely to capture security contracts are likely to vanish as quickly as they emerged.

Those firms specializing in the military consulting and training segment of the industry are most able to survive the eventual U.S. draw-down with the least impact to their corporate earnings or structure. They are likely to retain business training Iraqi military and police forces. For example, DynCorp International's police force training in the Balkans actually increased as U.S. force presence decreased.

The extent to which the industry experiences a post-Iraq shakeout may, in fact, improve the health and robustness of the remaining firms. With thousands of potential competitors, none possessing a dominant market position, many firms will exit the market and many more can be merged or acquired without eroding the industry's overall competitiveness.

CHALLENGES

While the ultimate decline in demand for contracted services in Iraq is a considerable threat to the growth and prosperity of PMO companies, the industry also is challenged by political, legal, policy and perceptual issues largely born out of the industry's prominent role in Iraq. The potential adverse effects these challenges pose and how the industry confronts them will determine the industry's future viability and survivability.

Political risk may be the most challenging as Congress considers using its legislative power to rein in the industry. The unprecedented use of contractors in Iraq and Afghanistan has drawn congressional attention to the PMO industry in ways never before experienced. Five PMO-related bills have been proposed since the 110th Congress convened on January 3, 2007 and the Congressional Committee on Oversight and Government Reform alone held nine PMO-related hearings in the first four months of 2007. Bearing titles like War Profiteering Prevention Act of 2007, Transparency and Accountability in Security Contracting Act of 2007, the Iraq and Afghanistan Contractor Sunshine Act, and the Iraq Contracting Fraud Review Act of 2007, the bills aim to improve oversight, transparency, and regulation of the industry (Washington Watch, S.119, 2007). Although much partisan political debate can be expected prior to enactment, these five bills⁵ are the beginning of a movement to closely monitor the PMO industry as it supports ongoing contingency operations.

This increase in congressional scrutiny is linked to the return of the Democratic Party to legislative leadership following the 2006 elections. Broadly speaking, the Democratic Party is generally less supportive of the Iraq war and outsourcing of government activities⁶ than the Republican Party. Leading Democratic candidates for the U.S. presidency have introduced the PMO growth phenomenon into their political discourse. Sen. Barack Obama (D-IL), a leading Democratic candidate for president, introduced one of the aforementioned bills, while Presidential hopeful Sen. Hillary Clinton (D-NY) has vowed to reverse the federal outsourcing trend if elected. She stated, "...We have more government contractors and grantees by three times the number than the entire military and Civil Service personnel... I have proposed cutting government contractors by 500,000 as soon as I'm sworn in," (Clinton, 2007).

Such attention to the industry inevitably and properly will lead the DOD to introspection on the short- and long-term consequences of outsourcing to the extent presently being experienced in Iraq. Notably, current estimates indicate that there is 1 contractor employee for every 1.5 U.S. service members in theater. While acknowledging that contracted services in support of U.S. expeditionary operations is likely to be an enduring reality of modern U.S. warfare, the DOD must assess whether or not it has neared or crossed the line that divides commercial activities from those deemed inherently governmental. Such an analysis could lead

⁵ Additional information on this pending legislation is located at http://thomas.loc.gov/home/bills_res.html.

⁶ On May 9, 2007, the House Armed Services Committee passed an amendment to the FY 08 Defense Authorizations Act (H.R. 1585) to place new limits on USG efforts to put jobs up for competition from private firms (Mandel, 2007).

to policy decisions that would further limit the scope of potential services PMO companies can provide to the DOD. The DOD's role in more rigidly delineating those services that should be preserved as inherently governmental will be addressed in greater detail in the Government Goals and Role section of this report.

A more restrictive definition of what is inherently governmental is one form of regulatory risk faced by the PMO industry. Others could involve calls for licensing PMO contractors, as is being considered by the U.K. government, or an effort to restrict domestic PMO companies from operating in conflict zones, as has been proposed in South Africa. Calls for regulation of the industry on a global basis are also increasing.

We cannot continue to ignore the need for regulation of the [PMO industry]. Circumstances that caused the industry's explosive growth over the past 4 years may not continue, but the [PMO industry] is not going to disappear. We must pursue appropriate regulation in order to shape the future of this industry (Percy, 2007, p. 23).

The industry also must grapple with a number of challenges related to legal accountability of contractor personnel. Since 2000, contractors who accompany U.S. military forces into a combat environment and are accused of a felony can be prosecuted under the Military Extraterritorial Jurisdiction Act (MEJA). This law allows personnel under contract with the DOD who commit criminal acts to be prosecuted in U.S. Federal Courts (Avant, 2005, p. 234). Though MEJA effectively establishes extraterritorial jurisdiction over contractor personnel, there are numerous loopholes in the law [e.g., isn't applicable to contractors working for non-DOD agencies (Schmitt, 2005, p. 2), is limited to felony offenses (Jacobson, 2006, p. 11)]. Moreover, though the law is in effect and nearly 100,000 contractors continue to operate in Iraq and Afghanistan, not one contractor has been prosecuted or punished for a crime under MEJA. Conversely, many U.S. troops have been prosecuted under the Uniform Code of Military Justice (UCMJ). Recognizing the shortcomings of MEJA, legislation was passed that seeks to close the gaps in MEJA by applying the UCMJ to contractors accompanying the force. Although the UCMJ has yet to be tested on contractors, the use of the UCMJ may be the first step in properly protecting foreign citizens and governments, and contractors alike. It may take some time to see any effects on contractors, as lawyers must work through the numerous constitutionality issues this new law poses.

The public's perception of the industry is the final significant category of challenges confronting the industry. Unfortunately, the negative actions of a few (e.g. Triple Canopy employees allegedly shooting innocent Iraqi civilians and DynCorp employees operating a prostitution ring in Bosnia) have provided fodder for the media's sensational portrayal of the industry as war profiteers, guns for hire, mercenaries and cowboys. The result is a largely inaccurate picture that ignores the fact that most industry participants are law-abiding, professional contractors who perform critical services for the agencies that employ them. The industry has not employed an effective voice to attempt to counter the negative reporting and perceptions, nor has the USG intervened on the industry's behalf to help present a balanced picture of contractor support and the crucial role that industry firms fill in today's strategic context.

OUTLOOK

Despite increasing scrutiny of the industry and an inevitable decline in demand for most PMO services in Iraq, the industry's long-term outlook remains generally positive. Three principal drivers of PMO market expansion are likely to remain features of the strategic landscape: a concerted effort to reduce military forces and spending, an increase in the number of deployments, and the DOD's use of increasingly sophisticated weapons systems (US GAO, 2006, p. 7). Unless the USG adopts a radically different and more isolationist foreign policy and/or chooses to increase significantly the size of its active duty force, the conditions and drivers that make outsourcing necessary are likely to remain unchanged in the near to mid term. Consequently, the future of contractor-provided expeditionary support is secure in that contractors have locked in a niche that may be too costly, fiscally and politically, for the DOD to fill with existing military capabilities and forces.

Contractors on the Battlefield

Predicting the extent to which the U.S. military will turn to support contractors to provide numerical and functional flexibility in future expeditionary operations is key to forecasting the future health of the PMO industry. While the DOD is likely to put the provision of privatized military security through a rather rigorous inherently governmental filter, DOD officials have indicated that they are unlikely to roll back the level of outsourcing of privatized military logistics and military consulting.

Logistics contractors comprise the largest population of private contractors deployed in Iraq, with an estimated 50,000 employed on the LOGCAP III contract and another estimated 20,000 providing support and maintenance to weapon systems. The DOD's drive toward greater use of Performance-Based Logistics (PBL) arrangements to support weapons systems means that the next large-scale contingency may see even more logistics contractors deployed with their companies' systems. Under PBL, contractors have a vested interest in placing their personnel as close to their equipment as possible. Since the DOD usually ties award fees to equipment availability goals when it employs PBL, it "incentivizes" contractors to support the warfighter to the maximum to earn the "maximum" award fee. Therefore, battlefield commanders must include system support contractor requirements in their planning process.

Other logistics-related contractors face their own set of challenges. Programs such as the Army's Logistics Civil Augmentation Program (LOGCAP) and the Air Force's Contract Augmentation Program (AFCAP), are here to stay. However, the DOD is restructuring them to provide more competition by using government-wide acquisition contracts, most with multiple awardees. Although this restructuring provides more competition, it makes logistics planning more difficult for military planners by increasing the number of contractor points of contact for planning purposes.

Military consulting companies are likely to be present as part of the total force in future conflicts, playing intelligence, communications and training roles. Training activities in particular, are apt to be required between conflicts as well.

The future for military security contractors is less certain. Activities in this segment of the PMO industry are most likely to be put to the inherently governmental test. Security

companies also are the target of much of the critical media attention, and much of the proposed legislation and regulation.

Replacing Iraq Business

For many PMO companies, the task of seeking new business to stave off the financial effects of the ultimate decline in revenue from Iraq has already begun. “These companies are just acting like companies. They are looking for new markets,” said a source with purview across the industry (Anonymous interview, May 8, 2007). The firms are taking various approaches to securing future business, including:

- Actively pursuing consulting and training contracts elsewhere, particularly in Africa as the U.S. government stands up its new Africa Command (AFRICOM). The African market opportunity will be explored more deeply in an essay later in this report.
- Seeking work with non-governmental agencies that require logistics and security services.
- Diversifying into the commercial market for PMO-type services, particularly as private companies seek to do business in increasingly unstable areas of the world.
- Many non-U.S. firms are forming alliances with U.S. PMO companies in pursuit of additional contracts with the U.S. military.

The positive outlook for the industry is largely driven by the global environment, which increasingly is characterized as unstable. The generally increasing worldwide threat level creates a growing need for private security, may lead to increased conflict and peacekeeping demands, and likely will provide more opportunities for the PMO industry. Because most observers of the industry believe this will extend the current PMO industry growth spurt, governments will be forced to consider carefully how they will utilize, monitor and control the industry.

GOVERNMENT GOALS, ROLES AND POLICY RECOMMENDATIONS

Goals and roles

A key goal of the USG is to maintain a military force with sufficient capability and capacity to properly support the president’s National Security Strategy (NSS). As this paper discusses, contracted PMO support has become, and will remain, a key component of U.S. military operations. Both the 2006 Quadrennial Defense Review (QDR) and DOD Instruction 3020.41 (Contractor Personnel Authorized to Accompany U.S. Armed Forces) recognize the industry’s critical role, describing PMO firms as part of the DOD’s “total force team,” operating alongside the active duty and reserve military and their civilian counterparts (QDR, 2006, p. 86).

The Iraq experience is living up to the QDR goal of making contractors part of the total force, but at the same time, it is exposing deficiencies in government roles that need to be further developed to improve effectiveness. The USG performs two essential roles with respect to the PMO industry -- regulator of the industry and customer. As a regulator, the USG ensures political and military control over the use of force is maintained. It does this by setting and enforcing standards for the export of PMO services, maintaining licensing and review mechanisms that ensure PMO services are exported only to approved customers, and ensuring effective legal accountability. As a customer, the USG is the single largest consumer of global PMO services and its vast appetite for PMO services is the principal driver for the rapid expansion of the industry over the past four years.

Policy Recommendations

DOD officials admit they did not plan for the contractor workforce in Iraq to grow as large as it has. One of the key issues that arose as a result of this unintentional mushrooming of contracted support and personnel was the need to clearly define those functions and tasks that are inherently governmental. Most PMO experts agree that the military should draw the inherently governmental line to exclude combat operations from the domain of PMO companies. However, in practical terms, defining combat operations in an unambiguous manner is a challenge. For instance, one private security company boasts having only once fired its guns in anger in more than three years in Iraq. Its employees and the VIPs it was escorting came under attack. With no military force in the area, it fought back and killed several Iraqi insurgents. Considerable debate arose regarding whether this constituted combat or self-defense and similar questions continue to arise with no solution in sight.

Accordingly, the DOD should conduct a formal analysis of functions it routinely plans to outsource, those that are inherently governmental, and those that may be augmented with hybrid military-contractor forces. Once it has determined a suitable definition for what is inherently governmental, it should align missions and capabilities, then match them with the appropriate resource. Inherently military functions should be assigned only to billeted armed forces service members, including reserve personnel for surge combat-related capability. Non-combat functions that are inherently governmental should be specifically performed by government civilians or service members, including members of the interagency. Non-core missions and specified non-combat related organic functions may be designated for augmentation via outsourced contractor support to create hybrid forces providing surge capacity. Non-core functions that are readily improved by commercial efficiency and effectiveness should be properly privatized for performance by contractor personnel.

In its regulatory role, the USG has a responsibility to hold contractors accountable for crimes, human rights abuses and behaviors that reflect poorly on the U.S. and its foreign policies. To address gaps in current authorities, the USG should expand upon existing regulatory mechanisms to develop a tri-layered regulatory approach that utilizes a combination of international, domestic and contractual controls to regulate both individual contractors and PMO firms. Internationally, it should conduct a bi-lateral meeting with the U.K. to define a framework for a realistic international regulatory construct for the industry. Any proposed solution should consider current International Committee of the Red Cross (ICRC) and Swiss government initiatives for global regulation centered on human rights. Domestically, it should fully implement and resource existing legal (MEJA and UCMJ) and regulatory tools and provide the DOJ with proper funding for enforcement. Contractually, it must consider additional mandatory FAR clauses that would seek to increase contractor liability for employees, such as:

- Mandating transparent reporting mechanisms for contractors
- Requiring contract employees to abide by international human rights laws
- Improving temporary command and control over contractors in emergency, contingency, and combat situations
- Additionally, the USG should actively pursue debarment of rogue contractors and “black listing” of errant employees from contract operations

The DOD must plan for and exercise the use of contractors to fulfill selected functions and deliver specified capabilities. It must include prime contractors in the exercise planning process and training evolutions, specifically in planning future expeditionary operations where contractor performance on or near the battlefield is virtually guaranteed. It should also restructure operational commands to designate the senior procurement official as a special staff officer reporting directly to the commander, providing centralized oversight and management for planning and advice. This would be similar to the reporting relationship of the Chaplain or JAG. Similarly, DOD should doctrinally capture Central Command's Joint Contracting Command construct for future operations.

Significant increases in the use of contracted services have a direct and escalatory impact on the number of contracts being written. The resulting challenges for the USG in general (and the DOD specifically) to provide adequate oversight for the increased number and value of contracts has a substantial negative aspect if corrective actions are not implemented. For example, the lack of experienced contracting officers, without the proper skills and experience to provide critical oversight, is a well-documented fact and major concern. Expansion of the acquisition workforce will help improve the current lack of oversight and accountability on the battlefield, but only if an adequate proportion of the acquisition corps is deployed to the theater of operations to effectively oversee contractor performance. In the absence of acquisition professionals, military officers in theater often are tasked with contract oversight responsibilities despite their lack of the necessary training, education and experience to fulfill this vital role. This issue and its proposed remedies are discussed in an essay later in this paper.

The USG must facilitate the prevalent use of service contracting by improving the size and competency of its acquisition work force and making doctrinal changes to its baseline contracting education. Additionally, it should increase armed services end strength to include additional billets and career tracks for military contracting officers that are readily available for contingency operations and can routinely provide robust contracting capability and oversight on or near the battlefield. Finally, the USG should focus increased training on services contracting, contractor oversight, and contract administration to improve control and management of the contracted workforce.

This study identified an opportunity to experiment with several of the proposed recommendations identified above. Specifically, the DOD should direct the new African Command (AFRICOM) to pilot a force function alignment and structure that plans for and is inclusive of a robust contractor workforce. The application of the contingency planning process to the plethora of challenges on the African continent would inform the definition and designation of functions and capabilities as either (a) inherently military, (b) inherently governmental, (c) organic to be augmented or surged with outsourcing, or (d) privatized for contractor fulfillment and resourced accordingly. Examples of potential experimentation include:

- The organization could be structured and its processes designed to include contractors in the planning process
- A single headquarters should be responsible for all contract management in theater and the head of that command should be designated as a direct report to the commander
- The contracting office should be staffed with an appropriate number of properly trained acquisition workforce members, both civilian and military, to ensure sufficient contingency contracting officers are ready and available to deploy into the field.

- AFRICOM could also incorporate a robust command indoctrination training program that provides basic contract services and contract administration training to operational/field leaders
- The contracting office could establish proper procedures and training for unit ordering officers and those actively executing or using contracted service.

ESSAYS ON MAJOR ISSUES

Essay 1. Into Africa

Africa may do for the PMO industry in the next 20 years what Iraq has done in the past four, provide a significant growth engine. Even as activities continue apace in Iraq, many PMO companies are devising strategies to establish or expand their presence in Africa. The continent is beset with circumstances that create a vibrant market for privatized military operations. It is dotted with poor countries, many of which have chronic security problems, poor infrastructure, and vulnerable natural resources. There are few countries south of the Sahara Desert that can afford to train, equip and maintain a robust security force. Additionally, many sub-Saharan African militaries are coping with HIV infection rates estimated from 10-60% (Donnelley, 2004, p. 11), which lowers their readiness rates and increases the likelihood that PMOs will be needed to supplement the force in times of crisis.

As one PMO industry source noted, “The only thing that is stable about Africa is instability” (Anonymous interview 3 May, 2007). The continent’s security outlook for the next two decades is little improved. As another source described, “In the next 20 years, there will be a scramble for Africa among the emerging world powers” (Anonymous interview 3 May, 2007). Those emerging world powers are likely to include China, which already has a tremendous foothold on the continent, Brazil, India and, potentially, Russia.

Against this backdrop, the U.S. military is in the process of establishing a new Combatant Command, AFRICOM, to protect U.S. interests in Africa. A February 7, 2007 press release notes that the command’s main purpose will be to develop a stable environment on the continent and promote civil society. As such, AFRICOM’s missions will include humanitarian assistance and disaster relief; training and equipping African militaries; and supporting regional organizations like the African Union. The command also will be responsible for any necessary U.S. military action in Africa (Wood, 2007, pp. 7-8).

Although the new command is only a part of the opportunity for PMO companies to seek new business in Africa, it presents the USG with an opportunity to test new models for working with the industry. In particular, as the DOD establishes the command, it also has the chance to plan from the outset how and to what extent it intends to utilize contractors. This would enable the DOD to formally integrate contractors into its planning for AFRICOM missions. Further, AFRICOM should adequately staff its contracting office, similar to the Joint Contracting Command Iraq/Afghanistan (JCC I/A), which provides centralized management of contracting agencies in the U.S. Central Command’s Combined Joint Area of Operations.

While several U.S. PMO contractors said they view increased U.S. strategic interest in Africa as a potential business opportunity, others have been operating on the continent for many years. Pacific Architects and Engineers, now owned by Lockheed-Martin, and DynCorp International have been working under a \$20 million contract since November 2004 to provide

logistical support to Africans engaged in peacekeeping in Darfur, Sudan. DynCorp is also providing logistical support and training for peacekeepers in Somalia and Liberia. MPRI has provided training for the militaries of Benin, Ethiopia, Ghana, Kenya, Mali, Malawi, Nigeria, Rwanda and Senegal under the State Department's African Contingency Operations and Assistance Program, and separately provided training and policy analysis to the South African military. Northrop Grumman is operating under a \$75 million contract to support the African Contingency Operations Training and Assistance program, which aims to train 40,000 African peacekeepers over 5 years, and KBR Inc. provides services to at least three bases in Djibouti, Kenya and Ethiopia used by the U.S. Combined Joint Task Force-Horn of Africa.

While these companies are providing mainly logistics services and training, others have broader ambitions. Former Blackwater USA vice chairman J. Cofer Black advocated the use of PMOs to assist in providing peacekeeping services in Africa. Blackwater, he said, could deploy a small rapid-response force to conflicts like the one in Sudan. "We're low cost and fast," Black said, "the question is, who's going to let us play on their team?" (Wiener, 2006, p. 3).

Other private security firms have operated on the African continent for decades, mainly in support of commercial clients, such as multinational oil companies. However, some companies also are looking at providing "defensive services" such as securing refugee camps and vulnerable villages, and guarding workers of humanitarian aid agencies and non-governmental organizations while operating in conflict zones (Wiener, 2006, p. 13).

Aid workers acknowledge that their work is becoming increasingly dangerous and that they are coming under fire more frequently than in the past. This has led some to employ private security companies and has caused the international community to analyze the emerging role of security contractors. Acknowledging PMO companies as a feature of modern warfare, the Swiss government and the International Committee of the Red Cross are working together to promote a better understanding of the application of international humanitarian law among PMO companies. The Swiss initiative aims to foster intergovernmental discussions related to the use of private military and security companies that eventually could lead to the development of best practices and regulatory models (Government of Switzerland, 2006).

Such calls for greater regulation of the industry stem in part from past actions of PMO companies in Africa. Claims range from performing mercenary activities to international arms smuggling. Yet despite a checkered past on the continent, some companies see Africa as the next best alternate market after Iraq and Afghanistan. "These companies are just acting like companies. They are looking for new markets. When Iraq business declines, many of them will be looking to move on to Africa," said an industry observer (Anonymous interview, May 8, 2007). The coincidence of industry's rush to Africa and the establishment of AFRICOM make it most opportune for the DOD to pilot new initiatives for planning for, hiring, and managing PMO contractors.

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Essay 2. Effecting Corrective Action through Training and Education

As mentioned previously in this paper, the increased scale of contracted PMO support has produced a number of challenges for DOD. Developing and implementing solutions for many of

them will take years, but at least two challenges can and should be addressed in the short term: the education of DOD senior leadership and improved oversight of expeditionary contracting.

Contracted support is here to stay and will be a part of military operations for the foreseeable future. DOD's increased use of hybrid forces creates a compelling requirement for DOD senior leaders to thoroughly understand contracted support in order to maximize its significant potential as a force multiplier. Though DOD has taken steps to accomplish this, there is still much room for improvement. Throughout the research underpinning this study, two of the most commonly identified areas of concern were the existence of a gap in knowledge concerning contracting and contracted support at the lieutenant colonel/commander through flag officer levels and the impact of the deficiency in forward based contract management and oversight personnel. These deficiencies materially perpetuate some of the key challenges DOD faces with contracted PMO support, including properly managing thousands of deployed contractors, seamlessly integrating contracted support into contingency operations and mitigating a shortage of contract management professionals.

Senior leader education gap

Unlike many of the issues associated with the PMO industry, the senior leader education gap can readily be addressed through means within DOD's control--namely through improvements in education. Current military joint and service professional military education (PME) programs, to include Capstone and the staff and war colleges, do not adequately prepare senior leaders to understand or effectively manage contracted military support, especially during deployed operations. In order to improve senior leader acquisition knowledge, the following basic elements of contracting and contract management should be added to joint PME curricula:⁷

- A general overview of DOD business procedures, to include the definition, description, purpose and examples of "acquisition," "contracting" and "contingency contracting." The terms "contractor" and "vendor" should be defined and described and an overview of the basic contracting process, both competitive and non-competitive, should also be taught.
- A description of the different types of funding (e.g., Procurement, Operations and Maintenance, Commander's Emergency Response Program, etc.) and the purpose and legal limitations associated with each type of funding.
- Definitions of "Contracting Officer" (KO), "Contingency Contracting Officer," "Contracting Officer's Representative" (COR), "Contracting Officer's Technical Representative" (COTR) and "Field Ordering Officer" (FOO) along with a billet description and the associated duties. Additional information should include the extent of the formal training for these billets and the degree of their authority and responsibilities to the USG, the commander and the vendor.
- An overview of the various types of contract vehicles employed by the USG, to include "cost plus," "fixed price" and "Indefinite Delivery/Indefinite Quantity" (IDIQ), as well as the advantages and disadvantages of employing each type of contract.
- A description and overview of large-scale "External Theater Support" contracts such as the U.S. Army's Logistics Civil Augmentation Program (LOGCAP), "Theater Support"

⁷ Although the focus of effort should be for senior leaders, PME programs for junior officers and senior noncommissioned officers should include an appropriate amount of this information as well.

contracts that provide services such as translators, and “Systems Support” contracts that provide technical support for specific weapons and equipment.

- An overview of the applicable federal regulations concerning military contracting and deployed contractors, to include the Federal Acquisition Regulation (FAR), and DOD Instruction 3020.41. Additionally, information concerning the critical role of government procurement and fiscal law attorneys in reviewing, interpreting and enforcing contracts also should be included.
- A review of accountability mechanisms, to include the Military Extraterritorial Jurisdiction Act and the Uniformed Code of Military Justice (with a specific emphasis on how both apply to contractor personnel accompanying the force).
- A review of applicable GAO reports and lessons learned from CENTCOM’s Joint Contracting Command.

Forward deployed contract management

Contracted military support, especially for basic logistical functions such as subsistence, billeting and facility maintenance, has become a standard and fully accepted element of deployed operations -- especially as a theater matures. Currently, DOD does not have enough trained and deployable contract management personnel to properly manage and oversee support contracts in Iraq and Afghanistan. Consequently, these tasks often default to officers whose insufficient contracting training or experience translates into little or no understanding of the military’s contracting process. Predictably, these officers are challenged to provide adequate contract management and oversight and, as a result, the force doesn’t receive the quantity or quality of support for which it contracted. Until DOD policy and staffing changes result in the deployment of sufficient qualified contract managers, military officers will continue to fill this crucial gap.

Though DOD policy and staffing change efforts are beyond the scope of this paper, there are interim measures that can be implemented to assist commanders in bridging this gap. Specifically, commanders need tools to facilitate the training and preparation of officers assigned contract management and oversight responsibilities. Building on the recommended PME enhancements described above, the following recommendations are provided to better prepare military officers to understand the basic aspects of the contracting process and to more effectively work with and manage civilian vendors while deployed.

- The Regional Combatant Commander’s J-4 (Logistics) Contracting Branch should develop a standard pre-deployment training program and series of information briefs concerning contractors and contracted support for commanders at all levels along with their staff officers, and more importantly, for those officers commanding forward operating bases in theater.
- This information should be focused, refined and then presented by the subordinate Joint Task Force/service component contracting staff and complemented by an abbreviated “smartbook” handout for later reference. At a minimum, topics should include:
 - An overview of the type of contracted support currently in effect in the Area of Responsibility (AOR) as well as background information about the basic structure/requirements of these contracts and the key organizations and personnel involved, both government and civilian. This overview should include a detailed accounting of the number and types of firms and the number civilian contractors providing services within the AOR.

- o A detailed brief on current Standard Operating Procedures which describes the commander's legal and operational relationships with contractors, as well as the his legal and moral responsibilities to these contractors, to include providing force protection, billeting, messing, medical support and personnel accountability. Commanders must understand the limits of their legal authority over these civilians (e.g., legally, only a Contracting Officer can direct a contractor or change the terms of a contract.)
- o An information brief containing guidance and recommendations for establishing and maintaining effective, ethical and legal relations between commanders and their staffs, Contracting Officers and their staffs and vendors. A persuasive explanation of the key role of the CORs and how the commander should best employ them is essential.
- o Recommendations for ways to effectively integrate the Contracting Officer, CORs, and vendors into the operational planning process and methods to best utilize the contracting process (e.g., through the Commander's Emergency Response Program funded local construction projects) as an "effect" or tool to positively impact the local economy and contribute to the unit's mission accomplishment. This should include contracted support "lessons learned" and best practices that have been developed, refined and employed in the AOR during previous deployments.
- o The JTF/Service component staffs should develop mandatory training programs designed specifically for their CORs. Since Contracting Officers generally work from a centralized location (some even work from the continental United States), they are often physically unable to personally monitor the performance of the vendors they administer. CORs, appointed by commanders in theater, serve as the Contracting Officer's "eyes and ears" and provide an evaluation of the contractor's performance along with recommendations from the on-site commander, as a supported customer, back to the Contracting Officer for appropriate and lawful action. The CORs must be taught their responsibilities and how to properly execute them -- before deploying if at all feasible.
- o Additionally, as part of the JTF/service component deployed unclassified internet websites, the J-4/contracting sections should establish and regularly update a "Lessons Learned" and "Frequently Asked Questions" web page with a list of readily available points of contact and useful references for commanders, CORs, COTRs and other staff officers from all levels of command.

Targeted and prompt attention to these two gaps is a fundamental requirement for addressing the challenges currently faced by DOD. Though corrective action may not be fully implemented prior to eventual U.S. withdrawal from Iraq and Afghanistan, action today can help ensure U.S. forces are postured for success in the future contingencies.

Col Michael M. Frazier, USMC and Col James C. Becker Jr, USMC

Essay 3. Comparative Regulatory Approaches

Given the outlook for continued use of PMO companies by the U.S. and other governments, regulation of the industry and those who work in it will become increasingly important. This is especially true of the private security segment of the PMO industry, some of whose members are alleged to have committed transgressions in Iraq ranging from simple

recklessness to human rights abuses to murder. Cases such as the Abu Ghraib prison incident, in which contractors are said to have taken active roles in prisoner abuse, offer ample inducement to seek greater scrutiny of the industry in general and security contractors in particular.

As the USG debates how best to frame a regulatory construct for the PMO industry, lessons can be learned from similar regulatory initiatives in other countries. Of the many countries that participate in the global PMO industry, South Africa and the United Kingdom offer the best comparative analysis opportunities for informing our own efforts. This essay will briefly examine the regulatory environment in each of these countries, review pending regulatory initiatives, and identify key aspects of their approach.

Many experts have identified the need for enhanced regulation of the PMO industry. Sarah Percy, a noted scholar from the University of Oxford, provides perhaps the best rationale for regulating Private Security Companies (PSCs):⁸

Regulation is necessary for five main reasons: because PSCs challenge both political and military control; because the rules governing PSCs are unclear; because the industry suffers from a lack of transparency; because PSCs are insufficiently accountable for their actions; and because the industry's future growth ought to be monitored to protect the public interest (Percy, 2006, p.15).

Percy's succinct summary underscores many of the concerns that are driving the South African and U.K. governments to examine both existing laws and to consider implementing new legislation. Each is approaching the issue from a slightly different direction and the USG can benefit by examining their rationales and methodologies.

South Africa

The South African government (SAG) views legal control of the PMO industry as a necessity to keep its robust privatized military industry in check. The SAG's guarded approach to the industry has deep roots in South Africa's apartheid history (wherein the state's security system was turned against the African National Congress (ANC) and other rebel groups) and its experiences with companies like Executive Outcomes (a private security company whose mercenary activities created significant controversy during the 1990's). Embarrassed by the actions of some PSCs and worried about the lingering effects of apartheid, the SAG instituted the Regulation of Foreign Military Assistance Act (RFMA) in 1998, which provided for the prosecution of citizens who actively participated in support of combat operations outside South Africa (e.g. Iraq and Afghanistan), but also had the unintended effect of penalizing all South Africans working in conflict zones to include humanitarian NGOs.

Though current law theoretically allows the PMO industry to operate, industry operations are tightly controlled and the existing legislation amounts to more of a ban on PMO operations than regulation of PMO activities. Pending legislation⁹ is even more restrictive and may have the net effect of banning nearly all PMO activities outside South Africa's borders.

⁸ Sarah Percy defines Private Security Companies as companies that provide four main types of service: logistical support; operational or tactical support; military advice and training; and policing or security. Though this deviates slightly from this paper's PMO industry definition, it encompasses roughly the same services and firms.

⁹ Prohibition of Mercenary Activities and Prohibition and Regulation of Certain Activities in an Area of Armed Conflict (Taljaard, 2006, p.169)

Key aspects of the pending South African legislation include an emphasis on individual and corporate licensing and a heavily bureaucratic licensing and waiver process. Key concerns include a number of questions regarding the constitutionality of the law, lack of responsiveness, and overly broad scope (Percy, 2006, p. 31). Notably, if the legislation is signed into law, there is a substantial risk that the SAG, in its desire to prohibit mercenary activity, may also prohibit or deter humanitarian assistance activities, security cooperation and assistance activities, and peacekeeping operations.

United Kingdom

Like South Africa, the United Kingdom (U.K.) government was embarrassed by the actions of a British company in the late 1990's. Prompted by calls for investigation and increased regulation, the U.K. government reacted by investigating and publishing a Foreign and Commonwealth Office (FCO) Green Paper in 2002 on the regulation of the PMO industry (Percy, 2006, p. 32). Unlike South Africa, the British government has a generally positive view of the industry and sees it as adding value to the British economy. The government recognizes the need for some form of government regulation, yet is unsure what form that regulation should assume. This has resulted in a policy stalemate as the U.K. government has failed to act on the Green Paper over the past 5 years.

At the center of the stalemate is a central question: should the government regulate formally or should the industry be allowed to self-regulate? The answer to this question is still being debated with no resolution in sight. In the absence of government regulation, the British Association of Private Security Companies (BAPSC), a trade association formed in February 2006, has stepped in to develop and administer a program of corporate self-regulation. As a lobbyist for British security firms only, BAPSC continues to drive home the importance of ethics and standards of behavior and believes that, through its Code of Conduct, the association can provide the necessary oversight and accountability for the PMO industry to maintain its credibility. This, together with existing domestic law, may bridge the gap until a decision on the Green Paper is made.

Key aspects of the U.K. Green Paper include an emphasis on corporate licensing and the incorporation of self-regulation into any solution. The laissez-faire British approach to regulation leads to several key concerns. Lack of government action on the Green Paper increases the risk of ad hoc regulation as issues occur. Reliance on BAPSC as the arbiter of self-regulation runs the risk of regulating only those willing and eligible to join the association.

United States

The U.S. is taking a blended approach to regulation as consensus builds for more regulation and better implementation of existing laws and rules. As the USG explores appropriate regulatory approaches, it should consider the pros and cons of the South African and U.K. experiences. Effective regulation should expressly address three segments: individual accountability (licensing of individuals, extending jurisdiction over individuals in overseas battlefields); domestic regulation (regulations concerning corporate responsibility and obligations, -- i.e., ITAR, etc) and international law (humanitarian law, Geneva conventions, international agreements, European Union law, World Trade Organization, etc.). Individual and domestic regulation can be addressed in the short term.

Individually, the UCMJ and the MEJA can be used to regulate criminal behavior on the battlefield. These legal actions specifically close loopholes that allowed contractors to avoid prosecution. On the domestic regulation front, there are several bills pending in Congress to address perceived shortfalls regarding contractor accountability and transparency. While PMO firms are liable under international humanitarian law, there is no internationally accepted construct for regulating the global PMO industry. As largest consumers and suppliers of PMO services, the U.S. and the U.K. should collaborate to create a framework for international regulation.

As the USG continues to pursue certain regulatory policies to deal with the growth of the privatized military industry, South African and British government views on regulating PMOs may provide valuable insights for the USG to use in framing its course of action. With these insights in mind, the USG can establish policies that attempt to draw a balance between the government's desire to regulate and the industry's desire to self-regulate. Experts believe that somewhere in the middle lies the balance needed to effectively allow all three levels of regulation to work.

LTC Kenneth Boehme, USA and Ms. Rhonda Ferguson-Augustus, DOS

Essay 4. America's Policy Dilemma

Contractors have supplemented armed forces practically as long as there has been war. However, never in history has the ratio of contractors to deployed troops been as high as it is believed to be today. During the 1991 Persian Gulf War, there was one contractor in theater for every 100 troops (Dobbs, 2003). Assuming 150,000 troops on the ground in Iraq today and 100,000 contractors in theater, the ratio is 1:1.5. Rep. Jan Schakowsky of the House Intelligence Committee believes that up to forty cents of every dollar spent on the occupation has gone to war contractors (Scahill, 2007, paragraph 8).

Today, industry's growing role with the military is the result of a combination of strategic decisions made over time to reduce the size of the active duty military and to shift many of the tasks previously performed by the military to federal civilians or contractors. As a result, the active duty force is smaller and industry is larger than at any time since the heyday of World War II (Comptroller, 2006, pp. 214-216). The total force composition has fluctuated over time in response to changing economic, policy and threat conditions. However, since the early 1990s, the deliberate outsourcing of military tasks has been in response to three principal drivers: a smaller military; an increase in the number of deployments; and the DOD's use of increasingly sophisticated weapons systems (GAO, 2006, p. 7).

Big questions

Outsourcing has resulted in a robust and capable PMO industry. PMO industry services consume an estimated 40% of the dollars being spent on Iraq. Additionally, there is enough evidence during the past four years to indicate that the industry is more than adequate to meet the needs of military contingency operations. Contingency operations in Iraq and Afghanistan proved the capability of the PMO industry, but at the same time, uncovered a number of risks and consequences associated with their widespread use. The "privatized security" aspect of the PMO industry has given the industry much of its notoriety, particularly the accountability of security contractors' actions in the battlefield. Regardless of evidence of the PMO industry's

ability to support requirements of national defense in normal and crisis conditions, the following big questions regarding overall force structure and the U.S. national security strategy remain:

- To what extent is the USG willing to pursue national objectives with its current military force structure?
- Is the USG willing to accept the risks inherent in deploying thousands of contractors on the battlefield?
- Will the USG adjust its strategic national goals based on the current active duty force structure? Will it change its NSS to reflect a more isolationist approach to national security in balance with budget levels?
- Or, will the USG take a hard look its national objectives and obtain an adequate force structure that meets military objectives and aligns with the NSS?
- If the U.S. does not currently have the total force structure (military, federal civilians and contractors) to support its operations in Iraq, what makes it believe it will have adequate force structure to support future operations elsewhere in the world?

National Security Strategy and force structure

Force structure management starts with an NSS that enables sound planning. Based on the NSS, the USG needs to understand where and how it will engage militarily around the world. In developing the National Military Strategy, the DOD must understand the risks of going it alone and the cost of soliciting coalition assistance. The DOD needs to break down military tasks that support the military strategy to determine organic military capability. By understanding the gaps in the current state of the workforce and various levels of potential surges in contingency operations, senior leaders can better understand which functions can and should be contracted out. Deliberate planning should produce expected results, not surprised leaders, regarding the number of contractors required to support future military operations.

Based on a task-by-task analysis, the DOD can purposely build a hybrid force that puts doctrine, procedures, training and personnel in place to support U.S. policy objectives. Efforts in Iraq have clearly pointed out a number of risks by pushing a large number of contractors onto the battlefield. The risks range from accountability of the contractors' behavior to impacting strategic goals with tactical mistakes. If risks are known beforehand, they can be actively managed or mitigated.

All the risks, challenges and questions arising from the issue of contractors on the battlefield seem to point to the question of what is inherently governmental, but the issue is more about the means to which the military accomplishes its objectives versus simply the ends itself. For example, the forces that have driven the military to its current form have been cost effectiveness and the USG's desire to downsize the active duty force. These goals were successfully accomplished; however, there may be a greater need to focus on the means ("how") to accomplish various functions within the military versus the cost effectiveness of "winning" a war or fielding an armed force.

Tactically, the USG is working to perfect, not scale back, the use of contractors to augment U.S. military might. As the GAO noted (2003, p. 6), contractors provide the military with services ranging from food, laundry and recreation services to maintenance of sophisticated weapons systems. This is often done because the DOD lacks the required skills or wants to husband scarce skills to ensure that they are available for other contingencies. Unless the DOD

and Congress are willing to make strategic choices between increasing military end strength to add needed skills or reducing international engagements, then the U.S. must accept that the PMO industry will increasingly become an integral element of the total U.S. force structure. Significantly, it may be the sole provider of certain military force capabilities rather than just an augmenter to U.S. military forces.

Ms. Sharon Denny, Raytheon and CAPT Joseph M. Vojvodich, USCG

CONCLUSION

The PMO industry is now a crucial element of the DOD's self-defined total force. U.S. engagements in Iraq and Afghanistan fueled explosive growth in the size and number of firms participating in the sector. However, the use of contractors has outpaced the development of policy and regulations regarding their use. With an estimated 40% of Iraq costs attributed to hiring PMO contractors, the industry has emerged from relative obscurity to become the subject of front-page news articles, congressional hearings, and television documentaries.

This scrutiny is exposing weaknesses in the processes used by the U.S. government to plan for and manage contractors accompanying the force. It also is revealing command and control and other issues related to populating the modern, asymmetric battlefield with tens of thousands of non-combatants. And finally, it is uncovering questionable behavior among some contractor employees.

Absent a radical change in U.S. military force structure or a less proactive foreign policy, the PMO industry will continue to be a crucial force multiplier in future engagements. Therefore, the U.S. government must act now, in advance of the nation's next major operation, to implement policies that will address the issues brought to light by the unprecedented use of PMO contractors in Iraq.

Chief among the steps DOD must take is to assess whether the Iraq experience has led it to outsource too many activities, and if so, identify which activities or missions are more appropriately performed by the military or government civilians. It must fence off those functions that it deems to be inherently governmental and deliberately plan to contract out only those identified as eligible to be performed by private industry.

Once that determination has been made, the government also must make some structural and policy changes that account for the use of contractors. Among the steps recommended are to expand the acquisition workforce to assure adequate contracting officers are deployed with the force to oversee the expected volume contracts and implement training programs specifically designed to improve the acquisition of services in theater.

The government also must regulate the PMO industry, especially the private security segment. Regulation should be pursued at the individual level, company level and at the governmental levels. Such process, policy, and regulatory changes could be tested through pilot programs at the new U.S. Africa Command, which is expected to utilize contractors for logistics, training, and other consulting tasks.

Given the generally unstable global conditions and codification of contractors as part of America's total force team, the future of the PMO industry appears bright.

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APPENDIX A

List of Acronyms

AFCAP – Air Force Civil Augmentation Program
 AFRICOM – U.S. Africa Command
 ANC - African National Congress
 AOR -- Area of Responsibility
 BAPSC – British Association of Private Security Companies
 CSIS – Center for Strategic and International Studies
 CAP – Civil Augmentation Program
 COR - Contracting Officer’s Representative
 COTR - Contracting Officer’s Technical Representative
 DOD – Department of Defense
 FAR - Federal Acquisition Regulation
 FCO - Foreign Commonwealth’s Office (U.K.)
 FOO - Field Ordering Office
 FY – Fiscal Year
 GAO - Government Accountability Office
 HIV - Human Immunodeficiency Virus
 ICAF - Industrial College of the Armed Forces
 IDIQ - Indefinite Delivery/Indefinite Quantity
 IPOA – International Peace Operations Association
 ITAR - International Trade in Arms Regulation
 JCC - Joint Contracting Command
 JTF - Joint Task Force
 KO - Contracting Officer
 LOGCAP – Army Logistics Civil Augmentation Program
 MEJA – Military Extraterritorial Jurisdiction Act
 MOD – British Ministry of Defence
 NSS - National Security Strategy
 PBL - Performance Based Logistics
 PME - Professional Military Education
 PMO - Privatized Military Operations
 PSC – Private Security Company
 RFMA - Regulation of Foreign Military Assistance Act
 SAG - South African Government
 SOP - Standard Operating Procedures
 QDR – Quadrennial Defense Review
 UCMJ – Uniform Code of Military Justice
 U.K. - United Kingdom
 USG – U.S. Government
 WTO - World Trade Organization