CASE STUDY NO. 1
COMPLEX OPERATIONS CASE STUDIES SERIES

Security by Contractor: Outsourcing in Peace and Stability Operations

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COMPLEX OPERATIONS CASE STUDIES SERIES

Complex operations encompass stability, security, transition and reconstruction, and counterinsurgency operations and operations consisting of irregular warfare (United States Public Law No 417, 2008). Stability operations frameworks engage many disciplines to achieve their goals, including establishment of safe and secure environments, the rule of law, social well-being, stable governance, and sustainable economy. A comprehensive approach to complex operations involves many elements—governmental and nongovernmental, public and private—of the international community or a "whole of community" effort, as well as engagement by many different components of government agencies, or a "whole of government" approach. Taking note of these requirements, a number of studies called for incentives to grow the field of capable scholars and practitioners, and the development of resources for educators, students and practitioners. A 2008 United States Institute of Peace study titled "Sharing the Space" specifically noted the need for case studies and lessons. Gabriel Marcella and Stephen Fought argued for a case-based approach to teaching complex operations in the pages of *Joint Forces Quarterly*, noting "Case studies force students *into* the problem; they put a face on history and bring life to theory." We developed this series of complex operations teaching case studies to address this need. In this process, we aim to promote research and to strengthen relationships among civilian and military researchers and practitioners.

The Center for Complex Operations (CCO) emphasizes the importance of a whole of government approach to complex operations and provides a forum for a community of practice and plays a number of roles in the production and distribution of learning about complex operations, including supporting the compilations of lessons and practices.

Dr. Karen Guttieri at the Naval Postgraduate School provided the research direction and overall leadership for this project.

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I have never yet found a contractor who, if not watched, would not leave the government holding the bag.

Senator Harry S. Truman, 1941

Any military that intends to be relevant beyond its national borders will be working with the private sector.

Doug Brooks, President
International Peace Operations Association, 2008

INTRODUCTION

September 16, 2007, approximately 12:08 p.m., Nisour Square, Baghdad City. The white Kia sedan had finally come to a complete stop, its chassis riddled with bullet holes. Its occupants, an Iraqi medical student and his physician mother, had both been killed in a barrage of gunfire. The chaos had begun just fifteen minutes before, with the nearby detonation of a bomb while a heavily armed convoy was rushing American VIPs through the crowded streets of the Iraqi capital. When the shooting stopped, seventeen Iraqis were dead and many more wounded. Were these just more unfortunate casualties of the Iraq War? Was this business as usual in the hot zone of a complex and dangerous occupation? Or did something go really wrong here?

What complicates the scenario further is the fact that the shooters were employees of Blackwater Worldwide, a North Carolina-based private security company. Blackwater had been operating in Iraq since the summer of 2003 after receiving a $27 million no-bid contract to provide security for Ambassador J. Paul Bremer, then head of the Coalition Provisional Authority (CPA).[1] The Iraq War was a watershed event for a rapidly growing private security industry that today populates and defines postwar stabilization and reconstruction efforts. At the time of this writing, there are nearly two hundred thousand individuals working on contract in Iraq—considerably

more than there are coalition military troops. Doug Brooks, president of the International Peace Operations Association (IPOA), the private security industry's trade organization, opined in a 2008 article that "every military that expects to be relevant beyond its national borders in the future will be working with the private sector."[2] Well-known commentator Robert Kaplan agrees: "The idea of a large American military presence anywhere without contractors is now unthinkable."[3]

The vast majority of those contractors fulfill logistics and operational support functions (such as cooks, construction workers, mechanics, or truck drivers). Yet an estimated twenty-five to thirty thousand contractors provide security or security support services. About three-quarters of the 7,300 private security personnel working for the Department of Defense (DOD) in Iraq carry weapons and are authorized to use force in self-defense, in defense of persons they are contracted to protect, or to prevent threats against the life of civilians.[4]

The Nisour Square shootings were by no means an isolated incident. But it was the bloodiest in a series of violent episodes involving Blackwater and other American contractors since the occupation began. A congressional investigation following the September 2007 incident revealed that "Blackwater has been involved in at least 195 'escalation of force' incidents in Iraq since 2005 that involved the firing of shots by Blackwater forces." This, the report continued, "is an average of 1.4 shootings per week."[5] Coming on the heels of the Abu-Ghraib prison scandal, concerns about the indiscriminate use of force stoked anger and resentment among the Iraqi government and people.[6]

Demanding the dismissal of Blackwater from the U.S. government's payroll, Iraqi Prime Minister Nouri al-Maliki explained after the Nisour Square shooting: "What happened was a crime. It has left a deep grudge and anger, both inside the government and among the Iraqi people."[7]

Although Congress, in the fiscal year 2007 Defense Budget appropriations bill, had already conceded that private security contractors working with the U.S. military and embassy staff would no longer enjoy immunity, the Bush administration rejected demands for the ouster of Blackwater.[8] In January 2009, the Iraqi government finally rejected a renewal of Blackwater's license to operate, effectively banning the company from Iraq.

The first section of this case traces the history and rise of the security industry and categorizes the types of firms providing security and security support services. Next, the case illustrates the reasons and motivations for individuals to seek employment as security contractors and discusses the implications of the growing market for privatizing security for the U.S. military. Finally, the case explores the advantages and shortcomings of outsourcing security functions and illustrates some of the dilemmas associated with "security by contract."

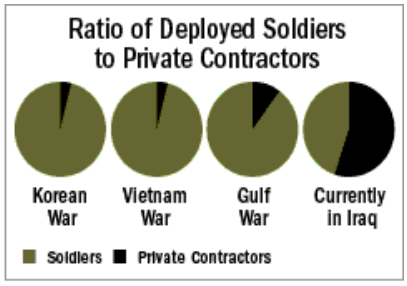
THE RISE OF AN INDUSTRY

A 2008 report from the U.S. Congressional Budget Office (CBO) estimated that between 2003 and 2007, U.S. government agencies awarded contracts totalling around $85 billion to private sector companies performing services in the Iraqi theatre. In 2008, these companies employed some 190,000 on-site individuals, approximately as many as there were U.S. soldiers deployed at the height of the Iraq War and "at least 2.5 times higher than that ratio during any other major U.S. conflict."[9] As of May 2009, there had been a confirmed 451 contractor casualties in Iraq.[10]

Of course, the use of contractor personnel in the theatre of operations is not new. Throughout history, states hired outsiders to fight their battles. "In some eras," Peter Singer, director of the Brookings Institution's *21st Century Defense Initiative* and an expert on private security issues, acknowledges, "these private entrants into conflict were individual foreigners, brought in to fight for whichever side bid the highest, known as 'mercenaries' in common parlance. In other periods, they came in the form of highly organized entities. For both, the important factor was their goal: private profit, derived from the very act of fighting."[11]

For example, during the American Revolutionary War, George Washington contracted with civilian merchants to deliver supplies to his troops. At the same time, German landgraves (erstwhile German noblemen with jurisdiction over a particular territory) sold into service some thirty thousand soldiers as auxiliaries to the British to fight against the American revolutionaries. These so-called Hessians[12] were not mercenaries in the strict sense, as they did not voluntarily hire out their services for money. Instead, as in many eighteenth century armies, most of these soldiers were conscripts, debtors, or petty criminals who fought for low pay and, in some cases, received nothing but their daily food.

Apart from those outsourced combat functions, field armies during the 1700s and 1800s relied on contracted wagons, drivers, and civilians to perform construction functions and almost all medical care.[14] During World War II, contractor functions expanded to address the increasingly complex technical needs posed by maintenance of military aircraft, vehicles, and signal equipment. Reliance on contractors rose further during the Korean and Vietnam wars in support of weapons systems, establishing base camps and depots, and providing logistical functions. For instance, by one estimate, "More than 50 percent of the direct-support helicopter maintenance needed during those two wars was provided by contractors."[15]



Source: Human Rights First[13]

With the inception of the all-volunteer force in the 1970s, concern mounted about the military's reliance on contractor support. A 1982 Defense Science Board report noted that despite satisfactory performance during crises and combat, "there were no formal mechanisms to ensure [contractors'] continued performance."[16] Subsequently, DOD reversed course and steered maintenance away from contractors and back toward

"organic" sources. According to DOD Directive 1130.2, issued in January 1983:[17]

> Contractor field services (CFS) . . . shall be used when necessary to accomplish military mission, when provision of services by DOD engineering and technical services specialists is impractical and when required skills are not available within the Military Departments . . . the use of CFS is limited to a period not to exceed 12 months after the DOD components achieve self-sufficiency in the use of new equipment or systems."

In July 1990, however, the pendulum swung the other direction again and the Pentagon cancelled Directive 1130.2. During operations Desert Shield and Desert Storm, the U.S. military used civilian contractors extensively, yet nowhere near where contractor engagement would be a decade-and-a-half later: in all, the Pentagon engaged seventy-six contractors who deployed some 9,200 employees to Iraq in support of Gulf War I. The Pentagon hired its contractors on hundreds of separate contracts. Not surprisingly, the results were mixed. A number of contracts contained poorly defined statements of work or none at all and oftentimes ambiguous contract requirements. As a result, many contractors performed inadequately and inefficiently and left their customers dissatisfied.[18]

Filling the Security Vacuum

What prompted the corporate evolution of services supporting military operations? What factors sparked the rapid and unrestrained rise of the private security industry between the two Gulf wars? Singer attributes the privatization of security to three dynamics: "The end of the Cold War, transformations in the nature of warfare that blurred the lines between soldiers and civilians, and a general trend toward privatization and outsourcing of government functions around the world."[19]

More specifically, a combination of force downsizing—the number of soldiers worldwide declined by about one-third, from twenty-nine to twenty million between 1988 and 2002[20]—and higher demand for force contributions to provide aid or support military interventions created the higher demand for private security.[21] By and large, private military actors, Singer found, particularly thrive in "periods of systemic transition" and "areas of weak governance."[22]

The end of the Cold War "provided a vacuum in the market of security." At the same time as militaries downsized and investments in the "peace dividend" rose, global threats became "more varied, more capable, and more dangerous."[23] While many had hoped for a "new world order,"[24] states collapsed, inciting widespread instability and violence virtually anywhere but in the developed Western world. Commentator Robert Kaplan predicted the "coming anarchy" as a result of these failures of governance.[25]

Simultaneously, globalization, including the post-Cold War opening of international markets, produced mixed results for different parts of the world, leaving the "bottom billion," as renowned World Bank economist Paul Collier calls the least developed, in poverty, malnourished, undereducated, marginalized, and disconnected.[26] According to Peter Singer, those with little hope constitute "a huge reserve for the illegal economy, organized crime, and armed conflict."[27] The combination of a growing number of disaffected and an oversupply of dislocated military-aged labor provided a market flood of soldiers ready to fight for whoever not only paid the bill but also offered a means of subsistence.

With large budget cuts and force reductions, an emerging need for international interventions to curb civil war, the prevalence of ethnic strife and genocide, and a rapidly growing demand by weak or besieged governments for contracted fighting services, the conditions were ripe for the rise of the private security industry.

Security, Inc.

To date, there is neither a universal, agreed definition of the label "private security contractor" nor a common understanding of how to classify the firms providing security functions. Brookings Institution expert Singer distinguishes three types of firms:[28]

- Military provider firms, such as Executive Outcomes and Sandline International (both now defunct), supply combat-type services, including participation in actual fighting. These firms function as force multipliers for their clients, who typically include weak or fragile states having relatively low military capability and facing immediate and high-threat situations.[29]

- Military consulting firms offer advisory and training services, thus assisting a client's armed forces. Although these firms do not themselves operate on the battlefield, they provide strategic, operational, and/or organizational analysis—known in military terminology as the "commander's estimate."

- Military support firms provide supplementary military services, including logistics, intelligence, technical support, supply, and transportation, thereby freeing up the client's military capability to focus on core combat functions.

Referring to the security industry as the "peace and stability" or "contingency" industry, IPOA classifies its corporate members into three sectors:[30]

- Logistics and support companies provide logistics and supply, threat assessment, consultancy, mine clearance, medical services, construction and engineering services, and waste management.

- Private security companies (PSCs) offer security-related services, including personal protection (also known as a protective security detail); static site security (for example, government buildings or training facilities); protection of critical infrastructure (for example, ports, oil installations and pipelines, power stations, and power lines); convoy protection; and security consulting, planning, and advice. Although contractors working this type of security detail in Iraq and Afghanistan almost invariably carry weapons, they are not permitted to engage in offensive combat operations and are authorized to use force only in self-defense.

- Development and security sector reform companies provide services aiding security sector reform, which typically entails reducing the size, budget, and reach of the military, police, secret services, intelligence, and the justice system and reforming them to become more transparent and accountable to their citizens, and supporting democracy and governance, economic and business development, and crisis mitigation and recovery.

THRILL RIDE VS. PAYCHECK

The September 2004 issue of *Rolling Stone* featured the story of an American tattoo artist, rock singer, and former Marine who made his living selling armed protective services in Iraq.[31] Coming on the heels of the mutilation of four Blackwater contractors in Fallujah in April 2004 and the horrible pictures of the prisoner abuses at Abu Ghraib prison that had made headlines earlier that same year, the growing involvement of private security firms in the war against terrorism came to the forefront of public attention.

Moreover, the picture of the industry painted in the media was less than flattering. Many commentators quickly likened individual security contractors to greedy, ruthless, and unscrupulous mercenaries, "freelance soldiers . . . who, for large amounts of money, fight for dubious causes."[32] Some commentators began comparing the booming security market to the Alaskan Gold Rush. For instance, the *Times* of London asserted, "In Iraq, the postwar business boom is not oil. It is security."[33]

IPOA president Doug Brooks sharply criticizes this sort of sensationalist news reporting: "The reality is that our members specialize in providing critical services professionally and ethically in chaotic environments. Such operations are inherently risky, and implementation is always challenging but too often misunderstood and misconstrued by outsiders. Frequently we find ourselves responding to inaccuracies propagated by irresponsible journalists, activists, and even academics."[34]

Mercenaries differ from both professional soldiers and from most private security contractors in that they fight for employers other than their home government. According to the 1977 Additional Protocol of the 1949

Geneva Convention, a mercenary takes part in the fighting but is neither a national nor member of the armed forces of a party to the conflict. Instead, he is "motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party."[35]

An October 2007 report by the UN Working Group on Mercenaries concluded that "a number of private security companies operating in zones of armed conflict are engaging in new forms of mercenarism" and warned that "states that employ these services may be responsible for violations of internationally recognized human rights committed by the personnel of such companies."[36] The working group also expressed concern that only thirty states had ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and that the United States has neither signed nor ratified the UN Mercenary Convention or the Additional Protocol to the Geneva Convention.

Rejecting the UN report, a spokesman for the U.S. mission of the UN offices in Geneva released a statement denying that security guards working under U.S. contract in Iraq were mercenaries: "Accusations that U.S. government-contracted security guards, of whatever nationality, are mercenaries is inaccurate and demeaning to men and women who put their lives on the line to protect people and facilities every day. . . . The security guards working for U.S. government contractors in Iraq and elsewhere protect clearly defined United States government areas, and their work is defensive in nature."[37]

With the end of the Cold War, contracting their professional skills to security firms became hugely attractive to scores of individuals with a considerable range of differing experiences and qualifications. Eager to expand business and profits, Blackwater, for instance, actively recruited highly qualified ex-Special Forces soldiers to deploy in Iraq and offered them salaries that dwarfed basic military pay. Clearly, "When a guy can make more money in one month than he can make all year in the military or in a civilian job, it's hard to turn down," explains ex-Navy SEAL (Sea, Air, Land) Dale McClellan, one of the original founders of Blackwater.[38]

Today, the private military contractors (PMC) Web site advertises: "The pay for PMC's in dangerous places like Iraq is generous. Experienced people can make $500–750 a day. But it's not all for the money, for many it's a new career path that has a sense of duty for country while helping to assist in building a new democracy."[39]

And indeed, it is not all about the pay. Contracting offers "a chance for many combat enthusiasts, retired from the service and stuck in the ennui of everyday existence, to return to their glory days on the battlefield under the banner of the international fight against terrorism."[40] As a former Navy SEAL explains, "It's what you do. Say you spent twenty years doing things like riding high-speed boats and jumping out of airplanes. Now, all of a

sudden, you're selling insurance. It's tough." For a fifty-five-year old police officer, the decision to sign on with Blackwater meant "the last chance in my life to do something exciting."[41]

A senior vice president for one of the U.S.-based security firms describes the contractor motivation this way: "We found that their military experience has provided an interesting culture for many of our employees. Collaboration and team cohesion, hierarchy of command, comradery, they enjoy this. Yes, money is also a motivating factor, but what drives people is their desire to serve their country in an indirect way and get the team cohesion they are accustomed to."[42]

The majority of contractors, expert-author Robert Young Pelton found, are "ex-military or police who have realized that their specialized training has limited value in the civilian world, and who, in order to provide well for their families, take serious risks for the healthy pay it affords. However, roughly 10 percent of those I have met consider themselves professional career contractors who do it because they enjoy strapping on armor and heavy weapons for the well-paying, high-risk, adrenaline-packed thrill ride."[43] And the industry is sufficiently diverse to provide employment for individuals with very different professional backgrounds and personal motivations.

Defining a professional profile for security contractors proves difficult. "Blackwater is like a fucking restaurant. You've got hundreds of people coming through. They usually fall into two categories. You've got the under-thirty crowd—the whippersnappers just looking for the biggest paycheck. Then you got the over-thirty crowd—the guys with a family and kids that are looking for a company to work for."[44]

Most important for companies is to choose and train the right people. Today, security firms subject potential employees to a fairly rigorous vetting process. The American security firm senior vice president explains, "As in many industries, there is a lot of hype early on. And if it is a rapidly growing industry, there may be problems with vetting early on as well. But the market has weeded out those companies that have not behaved ethically, legally or morally. At my company, we have a very detailed vetting system. We use psychometric tools for selecting employees, which helps us determine whether they fit in the culture and how they will operate under stress. We are confident that we can weed out potential problem employees."[45]

McARMY VS. MacARTHUR

When General Douglas MacArthur addressed the graduating class at West Point in 1962, he told them: "Duty, honor, country: Those three hallowed words reverently dictate what you ought to be, what you can be, what you will be."[46] But the U.S. military has changed significantly since those days. Shortly after the inception of the all-volunteer force, sociologist Charles Moskos observed that the military was moving from a traditional institu-

tional structure to a civilian or occupational format. Military service as a "calling to the nation" was giving way to being "just another job."[47] Moskos concluded that the U.S. military was shifting from an institutional format, legitimated by values and norms transcending individual self-interest in favor of a presumed higher good, to an occupational format, legitimated primarily in terms of marketplace concerns instead of normative considerations.

This shift has considerably impacted recruitment, retention, and rewards. Tim Horton, now head of public relations for Logistical Supply Area Anaconda in Balad, the biggest U.S. base in Iraq, and a transportation officer with twenty years of military experience, explains:

> What we have today is an all-volunteer army, unlike in a conscription army when they had to be here. In the old army, the standard of living was low, the pay scale was dismal; it wasn't fun; it wasn't intended to be fun. But today we have to appeal, we have to recruit, just like any corporation, we have to recruit off the street. And after we get them to come in, it behooves us to give them a reason to stay in.[48]

What does it take to keep soldiers in the military? Horton says, "There are some creature comforts in this Wal-Mart and McDonald's society that we live in that soldiers have come to expect. They expect to play Xbox, to keep in touch by e-mail. They expect to eat a variety of foods."[49] Gone are the MREs (meals-ready-to-eat) that soldiers solidarily complained about for decades. Today, soldiers take their chow at buffet-style cafeterias, wandering between the omelet station, soft drink fountains, and salad and dessert bars—all of course staffed by private contractors.

At a time when the military is overstretched and deployments are extended involuntarily, recruitment easily falls short of its target, and retention becomes an issue, especially when individuals with expert military skills can more than double their pay by "going private." As demand for security experts increases, the U.S. military finds itself in a new position—competing in the marketplace for the best and the brightest.

Secretary of Defense Robert M. Gates expressed his concern about these developments in the fall of 2007: "[M]y personal concern about some of these security contracts is that I worry that sometimes the salaries they are able to pay in fact lures some of our soldiers out of the service to go to work for them." Gates was so concerned that he asked the Pentagon to work toward including "non-compete clauses" in military contracts in order to "put some limits on the ability of these contracts to lure highly trained soldiers out of our forces and work for them."[50]

Asked about Secretary Gates's recommendation during the Blackwater hearing following the Nisour Square shooting, the company's founder, Erik Prince, responded that he had no objections against a "non-compete clause," but he believed that "it would be upsetting to a lot of soldiers if they didn't have the ability to use the skills they learned in the military in the

private sector."[51] When asked about his company's profits during the same hearing, Prince simply told the House Oversight Committee: "We're a private company . . . and there's a key word there—private."[52]

For Doug Brooks, "Too much is made of the competition between army and private sector":

> [T]he pay ain't as good as it is made out to be—the benefits that are given to U.S. troops are pretty damn good, and if you include those in [the pay] it is almost a wash. Contractors do have a higher proportion of cash in their pay, but ONLY when they're actually working. . . . [Y]ou're only employed half the time—if you're lucky. And much of your unemployed time is spent trying to line up your next contract. So split the $500–700 in half, take away the benefits and the contracting jobs don't look so sexy compared to military life. If you're particularly professional and experienced then the money can be good, for the vast majority it ain't a long career choice.[53]

OUTSOURCING: THE ART OF CUTTING WASTE

In 1982, faced by growing federal deficits, President Ronald Reagan set up the Private Sector Survey on Cost Control to root out waste and inefficiency in the federal government. Its chairman, conservative industrialist J. Peter Grace, concluded, "government-run enterprises lack the driving forces of marketplace competition, which promote tight, efficient operations."[54] By contrast, "[t]urn government operations over to the private sector and you get innovation, efficiency, flexibility."[55]

Almost immediately upon taking office in 1993, the Clinton administration implemented a 40 percent drop in the U.S. defense budget and reduced force levels by more than 30 percent to about 1.4 million troops. With growing concern over the efficiency of the federal bureaucracy, the Clinton administration and Congress challenged federal agencies to become more performance oriented and cost-effective by adapting "performance-based" management concepts from industry. And a decade later, the Office of Management and Budget reported "cost savings in a range of 20 to 50 percent when federal and private sector service providers compete to perform these functions."[56]

On September 10, 2001, precisely one day before the 9/11 terrorist attacks, Secretary of Defense Donald Rumsfeld told senior staff that the Pentagon was wasting $3 billion a year by not outsourcing many noncombat duties to the private sector:

> Why is DOD one of the last organizations around that still cuts its own checks? When an entire industry exists to run warehouses efficiently, why do we own and operate so many of our own? At bases around the world, why do we pick up our own garbage and mop our own floors, rather than contracting services out,

as many businesses do? And surely we can outsource more computer systems support.[57]

In an effort to clarify the scope of outsourcing, the 2001 Quadrennial Defense Review (QDR) Report emphasized that "only those functions that must be performed by DOD should be kept by DOD. Any function that can be provided by the private sector is not a core government function."[58] The 2001 QDR required DOD to separate its functions into "core" and "non-core" in terms of whether or not each is directly necessary for warfighting. As a result, functions now fall into three broad categories:

- Functions directly linked to warfighting and best performed by the federal government. In these areas, DOD will invest in process and technology to improve performance.

- Functions indirectly linked to warfighting capability that must be shared by the public and private sectors. In these areas, DOD will seek to define new models of public–private partnerships to improve performance.

- Functions not linked to warfighting and best performed by the private sector. In these areas, DOD will seek to privatize or outsource entire functions or define new mechanisms for partnerships with private firms or other public agencies.[59]

In part because of the uneven contractor performance during the first Gulf War, the U.S. Army began using a contract system known as the Logistical Augmentation Program (LOGCAP) in the early 1990s.[60] Four LOGCAP contracts have been awarded since 1992: LOGCAP I (1992–1997) was awarded to Brown and Root Services (now Kellogg, Brown & Root [KBR], since 2007 a subsidiary of Halliburton Corporation) for logistics support in several regions including the Balkans; LOGCAP II (1997–2002) went to Dyncorps International for peacebuilding work in Bosnia; and LOGCAP III was competitively awarded to KBR in December 2001 primarily for support of operations in Iraq, Afghanistan, Kuwait, Djibouti, Jordan, Kenya, Uzbekistan, and Georgia.[61] While LOGCAP I cost $815 million, LOGCAP III cost American taxpayers more than $15 billion in its first three years alone.[62]

With the current LOGCAP IV, the Army awarded four performance contractors in 2007 to deliver services, including supply operations, field operations, engineering and construction, communication networks, transportation and cargo, facilities maintenance, and repair. Under LOGCAP IV, "performance contractors will compete for individual LOGCAP task orders, fostering a competitive situation designed to control costs and enhance quality."[63]

Cost Savings Is Big Business

Security contracting is big business. From 2003 through 2007, U.S. government agencies obligated a total of $85 billion for contracts principally performed in the Iraqi theatre. This accounts for almost 20 percent of the $446 billion appropriated in toto for activities in Iraq but does not include contracts supporting operations in Iraq that are performed outside the Iraqi theatre.

For the eighteen-month period 2007 through the first half of 2008, the Government Accountability Office reported that DOD, State, and the U.S. Agency for International Development spent at least $33.9 billion on almost fifty-seven thousand contracts for efforts such as construction, capacity building, security, and a range of support services for U.S. forces and other government personnel in Iraq and Afghanistan. About three-fourths of the reported obligations were for contracts with performance in Iraq.[64]

The CBO estimates that the total U.S. government spending on private security services was $6 billion–$10 billion over 2003–2007, with $3 billion–$4 billion allocated to private security contractors operating in Iraq.[65] Similarly, the IPOA's Doug Brooks estimates the annual value of providing private security services to contingency operations worldwide at $20 billion, of which private security companies accounted for U.S.-$2 billion–$4 billion.[66]

Does outsourcing security achieve its objectives and save money? In the aftermath of the Nisour Square incident, Congress held a hearing in October 2007 to inquire whether the government's heavy reliance on private security contractors was a wise use of taxpayer funds.[67] According to contract documents, Blackwater had billed the U.S. government $1,222 per day for each individual protective security specialist, amounting to $455,000 per contractor per year. By comparison, an Army sergeant at the time earned between $140 and $190 per day in pay and benefits, for a total of $50,000 to $70,000 per year. And, as commanding general of the Multinational Force Iraq, General David Petraeus was making about $180,000 per year.

However, a recent CBO study asserts that these figures skew the comparative analysis of the cost-effectiveness of outsourcing security functions, since the $1,222 per day reflects the contractor's billing rate, not the amount paid to the individual employee. By its very nature, the billing rate will have to exceed pay, because it includes the contractor's indirect cost, overhead, and profit. Instead, the CBO suggests, [a] better comparison would involve a soldier's 'billing rate'—the total cost to the government of having soldiers fill the deployed security positions for one year."[68] In addition, the CBO report concludes that contractors generally bid various numbers of personnel in different labor categories, so a singular focus on security guards further skews the assessment.

To get a better comparison, the CBO performed an analysis reflecting all types of personnel as well as nonlabor costs (for example, vehicles and other equipment):

> That analysis indicates that the costs of the private contractor did not differ greatly from the costs of having a comparable military unit performing similar functions. During peacetime, however, the military unit would remain in the force structure and continue to accrue costs at a peacetime rate, whereas the private security contract would not have to be renewed.[69]

These calculations are based on the salaries of American contractors. The IPOA's Doug Brooks says, however, "Hire Iraqis to guard bases who know the culture, pay them market value of $700 per month instead of $15,000, and you can really save cost. One thing that is completely overlooked is the benefits this brings to the local population. Contractors compete with one another, so they will hire locals. That is cheaper, and they provide skills training and employment."[70]

Maximizing Profit

Of course, all cost-benefit calculations assume effective management and oversight. But especially in times of inordinate growth of a specialized industry, overpricing and cheating become a concern. And indeed, reports abound that charge security contractors with fraud, overbilling, wasteful spending, and "inadequate planning and inadequate oversight."[71] For instance, the Pentagon's own auditing office found that KBR may have billed DOD for 36 percent more meals than it actually provided. According to the Raleigh, NC, *News & Observer*, Blackwater paid its employees $600 per day but billed Dubai-based Regency Hotel and Hospital Company $815. Regency, in turn, billed Eurest Support Services (ESS), who billed KBR, who billed the federal government an undisclosed amount.[72]

The *News & Observer* described how overbilling worked in the case of one individual contractor working for Blackwater:

> Blackwater added a 36 percent markup, plus its overhead costs, and sent the bill to a Kuwaiti company that ordinarily runs hotels. That company, Regency Hotel, tacked on its costs for buying vehicles and weapons and a profit and sent an invoice to a German food services company called ESS that cooked meals for the troops. ESS added its costs and profit and sent its bill to Halliburton, which also added overhead and a profit and presented the final bill to the Pentagon. It is nearly impossible to say whether the cost . . . doubled, tripled or quadrupled.[73]

While potential cost savings are powerful incentives for outsourcing government functions, the private sector's motivation is to maximize profit. The problem, industry expert Peter Singer says, is that "the incentives of a private company do not always align with the clients' interests—or the public good. In an ideal world, this problem would be kept in check through proper management and oversight; in reality, such scrutiny is often absent."[74]

Allegations of war-profiteering as a result of open-ended, "cost-plus" contracts outraged members of Congress and the American public.

Early in the Iraq War, things had really run out of control. Henry Bunting, a retired Army staff sergeant and former Halliburton purchasing officer, said he "heard a common refrain in 2003 in Kuwait from managers of KBR . . .: 'Don't worry about price. It's cost-plus.'" Bunting continued, "[t]here is no question the taxpayer is getting screwed. There is no incentive for KBR or their subs to try to reduce costs. No matter what it costs, KBR gets 100 percent back, plus overhead, plus their profit."[75]

Representative Henry Waxman (D-CA) was furious: "Halliburton is gouging the taxpayer."[76] According to David Walker, the comptroller general of the United States, "The outsourcing of government has escalated across the board over the past five years, although oversight of the process has shrunk during this same period." In an interview with The Center for Public Integrity, Walker noted "particular problems with military contracting."[77]

In early 2007, Congress passed the War Profiteering Prevention Act intended to "prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts, and for other purposes."[78] In February 2007, then Senator Barack Obama introduced a bill aimed at closing the legal loophole that had allowed private contractors to escape prosecution.[79] But his legislation, like other similar measures, never passed the Senate and never became law.

Finally, in October 2007, following the Nisour Square shooting, the House passed legislation improving oversight over the booming security industry. The MEJA (Military Extraterritorial Jurisdiction Act) Expansion and Enforcement Act (H.R. 2740) subjects all contractors in war zones, now including also those working for the State Department, to the jurisdiction of U.S. criminal law.[80] Moreover, the fiscal year 2008 Defense (H.R. 1585) and Intelligence (H.R. 2082) authorization bills further improves control and oversight. "These bills together," explains Representative David Price (D-NC), "should dramatically change the way our government uses and oversees contractors on the battlefield and in sensitive intelligence areas."[81]

Aware of the billing problems, President Obama, in his first address to a joint session of Congress on February 24, 2009, promised: "We'll eliminate the no-bid contracts that have wasted billions in Iraq."[82] And in March, he promised that the American people's money will "be spent to advance their priorities—not to line the pockets of contractors or to maintain projects that don't work."[83]

The Cost of Cost Savings

The quest to cut costs may backfire. For example, in early 2002, the U.S. Army cut funding to its Intelligence Center's interrogator school at Fort Huachuca, AZ, effectively setting loose about half of its instructors. This move, critics alleged, would "cripple the Army's ability to properly train its

counter-intelligence personnel at a time when intelligence assets are sorely needed to fight the war on terrorism."[84] "What's most astonishing," Pratap Chatterjee, managing director of Corpwatch.org, stated in an interview, "is that once they lay these people off, they turn right around and hired a private company to hire these very same people at probably double the pay to come and work as private contractors without being assigned as part of the military command structure, which means they're able to go in as civilians. They don't face court-martial, and they can do what they want."[85]

In response to the Nisour Square shootings, the State Department created a Force Investigation Unit to look into Blackwater contractors' alleged use of force, effectively hiring contractors to investigate possible crimes committed by other contractors. It is like "outsourcing henhouse security to a fox," industry expert David Isenberg opined.[86]

But apart from this conflict of interest, some experts also see a potential violation of the law, because federal acquisition regulations do not permit the hiring of contractors for jobs "considered to be inherently governmental functions," including "the direct conduct of criminal investigations."[87]

Given the explosion of contracting with little public debate or formal policy decisions, some observers warn that "contractors have become a virtual fourth branch of government."[88] But the problem goes deeper than the flagrant cases of waste and fraud. Watchdog groups allege the following:

- Competition appears to have sharply eroded. A *New York Times* analysis, for example, shows that in 2005 less than half of contracts (48 percent) were competitive, down from 79 percent in 2001.

- Even the most sensitive and secret government jobs are now being outsourced. For instance, some 70 percent of the budget for intelligence collection goes to private contractors.[89]

- The most successful contractors may no longer be "those doing the best work, but those who have mastered the special skill of selling to Uncle Sam."

- Contracting typically results in less public scrutiny, as programs are hidden behind closed corporate doors and are not subject to the provisions of the Freedom of Information Act.[90]

Do not Blame the Messenger

Although even the most outspoken critics acknowledge that the government cannot function without contractors, the current trend, a recent study of experts appointed by the White House and Congress found, "poses a threat to the government's long-term ability to perform its mission" and could "undermine the integrity of the government's decision making."[91]

But placing all the blame on the contractors would be shortsighted. "Agencies are crippled in their ability to seek low prices, supervise contractors and intervene when work goes off course because the number of government workers overseeing contracts has remained level as spending has shot up."[92]

Indeed, the Commission on Army Acquisition and Program Management in Expeditionary Operations concluded in its October 2007 report: "The Institutional Army has not adjusted to the challenges of providing timely, efficient, and effective contracting support to the force in Operation Iraqi Freedom. . . . Essentially, the Army sent a skeleton contracting force into theater without the tools or resources necessary to adequately support our warfighters."[93] This is not surprising, given that the Army cut its contracting workforce in half in the mid-1990s and has kept it stagnant since. Yet, complexity has increased dramatically in the past decade and workload is up by more than 600 percent.[94]

Doug Brooks explains: "If we don't use contractors, then who is going to complete those functions? And if we use contractors, we better get the contracting right. Cost overruns are often related to deficiencies in contract management and oversight. Contractors are often the 'fall guys.' For obvious reasons, you will not point out that problems are actually the client's fault. You make it to the front pages and get hammered in the headlines and you suck it up!"[95] He explains further:

> Take the competitive contracts vs. noncompetitive contract numbers with a grain of salt. Often competed contracts have to be modified in such a way that it is administratively easier to simply re-award them to the firm that already won the contract as an 'urgent and compelling' sole-sourced contract. This has been especially true in contingency operations. It saves the government the time and cost of rebidding the contract. And time is usually more important than money in contingency operations.[96]

"It is clear," so the House Appropriations Committee concluded, "that DOD currently lacks the means to provide proper oversight of its service contracts, in part because of an insufficient number of contract oversight personnel."[97] This view is shared by experts in the field. As one former senior army general officer remarked, "In Iraq contract management for non-LOGCAP was a 'pick-up game.' When done at all, it was a secondary function."[98]

CONDUCT UNBECOMING

To industry members and critics, tighter oversight was long overdue. Singer explains, "Even when contractors do military jobs, they remain private businesses and thus fall outside the military chain of command and justice systems."[99] Unlike military units, private companies can decide which contracts

to take, and they can walk away from any contract and abandon operations if they become unprofitable or too dangerous. Of course, in doing so, companies may jeopardize their prospects for repeat business.

And indeed, numerous firms delayed, suspended, or ended their operations in Iraq, leaving the military in the lurch to pick up the slack. As James Surowiecki commented in *The New Yorker*, "No contract can guarantee that private employees will stick around in a combat zone. After the Iraq War, some contractors refused assignments to dangerous parts of the country. That left American troops sitting in the mud, and without hot food. . . ."[100]

Moreover, when things go wrong, as they did in Abu Ghraib, holding private contractors accountable for their actions has proven difficult. "It's bad enough," industry watcher David Isenberg concludes, "that the CIA [Central Intelligence Agency] has reverted to torture in its questioning of terrorist suspects and covered up evidence by destroying the tapes; but it's even worse to hand these tasks over to private companies operating under classified contracts that are themselves illegal to disclose and who are answerable only to their stockholders."[101]

The watchdog group Human Rights First arrives at a sobering assessment: "The failure to investigate and prosecute these violent attacks has created a culture of impunity that angers the local population, undermines the military mission, and promotes more abuse by contractors over time."[102]

In its investigation of the Nisour Square shooting, the Federal Bureau of Investigation concluded that at least fourteen out of the seventeen shootings were unjustified and that Blackwater guards had "recklessly violated American rules for the use of lethal force."[103] Iraqi authorities went a step further and characterized the incident as "deliberate murder." Nonetheless, the guards could not be prosecuted under Iraqi law because of an immunity proclamation made by the Coalition Provisional Authority, the governing authority installed by American troops following the invasion.

Dating back to a CPA order from June 2004, contractors working for U.S. agencies were immune to Iraqi law with regard to all actions performed in fulfilment of their contractual obligations. A June 2003 CPA notice specified the status of contractor personnel:

> In accordance with international law, the CPA, Coalition Forces and the military and civilian personnel accompanying them, are not subject to local law or the jurisdiction of local courts. With regard to criminal, civil, administrative or other legal process, they will remain subject to the exclusive jurisdiction of the State contributing them to the Coalition.[104]

And CPA Order No. 17 (Section 4.3) specified that non-Iraqi "contractors shall be immune from Iraqi legal process with respect to acts performed by them pursuant to the terms and conditions of a contract or sub-contract thereto." As a consequence, none of the contractors implicated in the Abu Ghraib prison scandal were prosecuted for their abusive interrogation techniques.

Things finally turned around in December 2008 when, in a first application of the MEJA Expansion and Enforcement Act, five Blackwater guards were indicted for their involvement in the Nisour Square shooting. According to Doug Brooks, "Some fifty MEJA cases appear to be pending right now, but that information is confidential. We are quite happy with those developments, but we would like to see an open MEJA process. Ultimately, it would be great to have one comprehensive bill for all contractors."[105]

Self-policing of an Industry

To date, most disciplinary actions, particularly for minor offences, are still left to the industry. Brooks knows this situation might not be ideal, but "in any environment like that, you don't have the luxury of boards of appeal and courts for minor offences. What happens is the people are fired. Unfortunately, that's what you have to do in this environment."[106]

The International Peace Institute admonishes that "the absence of effective regulation leaves responsible industry players and investors without the guidance they require, and allows less responsible players to indulge in contractual fraud and price gouging, and to hide the true social and economic costs of their activities—including violations of human rights and international humanitarian law."[107]

Even the very latest regulatory schemes fall short of providing comprehensive mechanisms for controlling the behavior of security firms or of individual contractors. In September 2008, seventeen states, including the United States, finalized the so-called Montreaux Document, the first international document to describe international law as it applies to the activities of private military and security companies whenever these are present in the context of an armed conflict.[108] Itself not legally binding, the Montreaux Document provides important guidance to states—there is no comparable guidance tailored to the industry. But "The absence of effective standards enforcement arrangements," the International Peace Institute concludes, "casts a pall over the industry as a whole, exposing it to claims that it does not respect human rights."[109]

While there is currently no regulatory industry standard, there are strong incentives for companies to monitor their employees' behavior and adopt self-regulating mechanisms to strengthen transparency, accountability, and predictability. Many, but far from all, of the private security firms operating in Iraq adhere to the IPOA's Code of Conduct, developed as an ethical standard for corporate members operating in conflict/postconflict environments. The Code of Conduct pledges IPOA members to respect human rights; operate with integrity, honesty, and fairness; recognize and support legal accountability; work only for legitimate and recognized governments, international and nongovernmental organizations, and lawful private companies; and ensure adequate training and vetting of their personnel.[110]

As of March 2009, the IPOA serves a total of fifty-three corporate members, all of whom have signed its Code of Conduct and have pledged to

abide by the ethical standards established therein. And self-regulation seems an attractive choice for many companies. IPOA membership has more than doubled since 2006. Roland Vargoega, owner and president of Dynsec Group, affirms: "Our membership in IPOA has helped differentiate our company by the fact that our clients can see that we live up to the highest standard within the industry. By such, IPOA has helped us win contracts."[111]

And Brooks affirms, "[o]ne of the great misconceptions is that the industry seeks to evade laws, regulations and accountability. In fact, rules and guidelines can make commercial operations far easier, more predictable and simpler. They also serve as a barrier for entry to less professional companies and limit the ability of those firms to tarnish the entire industry."[112]

However, at this time, there is no uniform evaluation of the IPOA or similar corporative codes or their implementation by government agencies. Notably though, Blackwater is missing from the IPOA member roster.[113]

LIST OF ACRONYMS

CBO	Congressional Budget Office
CIA	Central Intelligence Agency
CPA	Coalition Provisional Authority
CFS	Contractor field services
DOD	Department of Defense
ESS	Eurest support services
FBI	Federal Bureau of Investigation
IPOA	International Peace Operations Association
KBR	Kellogg, Brown & Root
LOGCAP	Logistics Civil Augmentation Program
MEJA	Military Extraterritorial Jurisdiction Act
MRE	Meal-ready-to-eat
PMC	Private Military Contractor
PSC	Private security company
QDR	Quadrennial Defense Review
SEAL	Sea, Air, Land
USIS	U.S. Information Service

ENDNOTES

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13. See http://www.humanrightsfirst.org/us_law/pmc/pages.asp?country=us&id=10&misc1=exec-sum (accessed March 26, 2009). Readers ought to note that the contractor ratios in earlier conflicts (for example, the Korean War or World War II) were much lower, since reconstruction efforts began only after the fighting had ended, while in Iraq, Afghanistan, and the Balkans, reconstruction and military operations are/being/were undertaken simultaneously.

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104. The texts of the CPA orders can be found at http://www.pscai.org/cpadocs.html (accessed March 19, 2009).

105. Doug Brooks, interview with the author, March 25, 2009.

106. Peter Spiegel, "Iraq: No Contractors facing Abu Ghraib Abuse Charges," *Financial Times*, August 9, 2005, http://www.corpwatch.org/article.php?id=12535 (accessed March 18, 2009).

107. James Cockayne, et al., "Beyond Market Forces: A Feasibility Study for a Standards Implementation and Enforcement Framework for the Global Security Industry" (New York: International Peace Institute, September 8, 2008), p. x, http://www.unwg.rapn.ru/en/analytics/IPI_Study_-_EXEC_SUMM_CONSULT_DRAFT.pdf (accessed March 30, 2009).

108. The Montreaux Document is the product of an initiative launched cooperatively by the Swiss government and the International Committee of the Red Cross. It was developed in a series of meetings between 2006 and 2008, with the participation of experts from seventeen governments and in consultation with representatives of civil society and of the private military and security industry. The document reaffirms the obligation for states to ensure that private military and security companies operating in armed conflicts comply with international humanitarian and human rights law. The document lists some seventy recommendations, derived from good state practice, including verifying the track record of companies and examining the procedures they use to vet their staff. The text of the document is available at http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/montreux-document-170908/$FILE/Montreux-Document-eng.pdf (accessed June 2, 2009).

109. Cockayne et al., "Beyond Market Forces," p. 5.

110. The latest version of the IPOA Code of Conduct, adopted in February 2009, is available at http://www.ipoaworld.org/eng/codeofcon ductv12en.html (accessed March 29, 2009).

111. See http://ipoaworld.org/eng/testimonials.html (accessed March 19, 2009).

112. Brooks, "Testimony," p. 3.

113. An updated membership list is available at http://ipoaworld.org/eng/memberslist.html (accessed March 19, 2009).

Security by Contractor: Outsourcing in Peace and Stability Operations

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ABSTRACT

This case examines the benefits and limitations of outsourcing peace and stability functions to a rapidly growing private sector and illustrates implications for civil-military cooperation in complex operations. The case traces the history and rise of the security industry, categorizes the types of firms providing security and security support services, illustrates the reasons and motivations for individuals to seek employment as security contractors, and discusses implications of the growing market for privatizing security on the U.S. military. Finally, the case explores the advantages and shortcomings of outsourcing security functions and illustrates some of the dilemmas associated with "security by contract." Among others, the case wrestles with the following questions: What is the global security industry, and where did it come from? What are the roles of contractors in complex operations? What are the advantages and disadvantages of outsourcing security functions? What are the domestic and international policy implications?

BACKGROUND

Outsourcing government functions to the private sector is by no means a new phenomenon. And hiring individuals for warfighting purposes is as old as fighting wars itself. But never before in history have private contractors—individual or corporate—played such a central role in providing services in support of military missions as they do today. Indeed, there are currently more contractors working for private security firms in Iraq than there are military troops. And with the Obama administration's planned withdrawal of U.S. forces from Iraq, the balance between security provision through government and the private sector is likely to shift further in favor of the latter.

Supporters and critics of the booming global security industry agree that the industry has established itself as an important player in international

security. Especially when it comes to conducting complex contingency or peace and stability operations, outsourcing some of the security functions traditionally fulfilled by the military is becoming a viable, flexible, speedy, and cost-effective alternative to deploying troops. As the IPOA's Doug Brooks provocatively points out: "Every military that expects to be relevant beyond its national borders in the future will be working with the private sector."

But growing demand for private security services has come at a price: As of March 2009, there were 447 confirmed contractor casualties in Iraq, compared to a total of more than 4,500 soldiers—more than 4,200 of which are Americans (see www.icasualties.org). In addition, the industry has been riddled with criticism for waste, fraud, and abuse.

THE PURPOSE OF THE CASE

The purpose of this case as a teaching tool is to familiarize students with issues related to the **outsourcing of security functions** to the private sector and to raise questions such as the following:

- What is the global security industry, and where did it come from?
- What are the roles of contractors in complex operations?
- What are the advantages and disadvantages of outsourcing security functions?
- What motivates individuals to seek employment with a private firm?
- What are the domestic and international policy implications of using security contractors to fulfill military/military support functions?

Moreover, the case presents a number of **policy dilemmas** posed by the trend to outsource security, including

- the industry's orientation toward profit maximization, which may not always line up with the client's interest or the public good;
- the lack of democratic control over a rapidly growing and largely unregulated industry;
- the limited accountability of the industry fueled by the absence of regulations, oversight, and enforcement;
- the shortcomings in the government's ability to manage the exploding number of contracts and insufficient contract oversight;

- the inadequate knowledge of the professional background and motivations of security contractors; and

- the challenges presented to the unique status and functions of a professional military force by a privatized security industry and to questions of military recruitment and retention.

TEACHING THE CASE

Unlike an academic article, case studies developed for teaching purposes do not reach definite conclusions nor do they provide specific policy recommendations for how to resolve the showcased dilemmas. Quite the contrary, they present evidence in support of both (or more) sides of a policy argument and will often leave readers with some discomfort in terms of how dilemmas should be resolved. Therefore, this case does not derive specific policy recommendations or "logical" conclusions. Rather, it challenges readers to recognize the importance of privatizing traditional security functions, deduce policy implications, and discern lessons that might apply to other—perhaps even non-security-related—areas of public policy, administration, and management. This case is written in nontechnical language and should be appropriate for use in professional military education settings as well as in graduate and advanced undergraduate civilian academic classrooms.

Most generally, instructors may want to start the classroom discussion by asking a series of **general questions** (these could pertain to any case) including the following:

- What is this case about?

- What is/are the problem(s) and dilemma(s) specific to the case?

- What are the larger policy implications exemplified by this case?

- Who are the main actors (for example, persons, agencies, states, organizations, companies, and so on) that make up the story? Who is the protagonist, who the antagonist?

- What are their respective positions/interests? How do they pursue those interests?

For Professional/Military Students

- How are this case, the dilemmas, and the implications relevant to YOUR experiences and organization?

- How do they affect how you do your job?

- How do they challenge YOUR management and leadership capabilities?

After these general introductory questions, instructors may want to show a short **video** illustrating some of the issues surrounding the use of security contractors. The infamous "trophy video" depicting Aegis defense services employees showing contractors shooting from their vehicle at traffic may work for this. A series of very short news reports from NBC Nightly News also provides excellent background information on a number of the dilemmas illustrated by this case. Links to both videos are provided below.

Specific dilemmas illustrated by this case include the following:

THE OUTSOURCING DILEMMA

Outsourcing or privatization describes the process whereby activities that were formerly carried out by government agencies are now assigned to non-government, for-profit agencies, usually under contract with the government. The idea behind outsourcing is that market competition will raise the quality of services provided while lowering costs. Especially during the Bush administration, which operated under the belief that government should be market based, competitive sourcing became a standard for providing government services. Here, the government enters into competition with the private sector in an effort to improve performance and efficiency. The objective is to focus on the most effective and efficient way of accomplishing the agency's mission regardless of whether it is done by civil servants or contractors.

Outsourcing has direct implications for organizational (military and corporate) culture and management, performance assessment, and employee motivation. Questions that might spark interesting classroom discussion include the following:

- What are your experiences with outsourcing (very generally)?
- Does competitive sourcing improve performance and efficiency? What are the benefits/drawbacks?
- What are the true cost savings of outsourcing security? Is it really cheaper—in the short term and in the long run—for the U.S. government to rely extensively on private contractors rather than using U.S. military personnel or civil servants?
- Is there a difference in the performance of private contractors versus government employees/ civil servants/soldiers?
- Are contractors as committed to/motivated for public service as civil servants/soldiers? What differences do you see?

THE NATIONAL SECURITY DILEMMA

In addition, this case could generate a more general discussion of the **privatization of national security**. The purpose of the military is to defend national interests at home and abroad. The fundamental goal of corporations is to maximize profit. By the very nature of their interest in the bottom line, firms will be tempted to increase their profits at their client's expense. Profit-seeking security firms are no different.

The following questions are not necessarily intended to be asked directly, but instructors could steer the discussion in a direction that would allow participants to arrive at these issues on their own:

- To what degree has U.S. national security been privatized out of government hands to corporations, nongovernmental organizations, and other groups?
- What are the implications of outsourcing for national security? Are there "core military functions" that should not be contracted out? Which ones? Why?
- Has the United States gone too far? What kind of limits should policymakers impose when outsourcing American national security?
- How does the trend toward privatizing security functions affect the state's "monopoly on the legitimate use of violence in a given territory"? What are the implications for national security?
- What impacts does the use of private contractors have on military morale and discipline? How does it affect the ability of the uniformed services to retain skilled military personnel in critical specialty areas?
- Does it matter whether a contractor is U.S. based or foreign? What are the advantages and disadvantages of hiring (a) American contractors, (b) third-country nationals, or (c) locals to fulfill security-related functions?

Particularly the last question could lead to a discussion related to intelligence-gathering and the sharing of sensitive information between military and private security professionals with differing levels of security clearances. It could also spark discussion about the use of security contracts for job creation and skills development at the local level.

THE OVERSIGHT DILEMMA

The case identifies contract oversight and control over contractor behavior as a central dilemma in the outsourcing of security functions. Questions for classroom discussion of these issues include the following:

- Are current government contracting and procurement regulations and management standards adequate for effective oversight over the private security or contingency industry?

- How can private actors be held accountable most effectively for their actions? How can we ensure that they pursue and protect U.S. interests and follow the rules of engagement?

- Are recent changes such as the 2007 MEJA Expansion and Enforcement Act and the indictment of the Blackwater shooters sufficient to address the problems inherent in controlling a rapidly growing industry?

- How effective is self-regulation? How can adherence to an industry Code of Conduct be ensured/enforced?

REFERENCES

In addition to the case manuscript, instructors may also want to assign supplementary background readings. The following sources work well as reference materials for this case and are easily available online:

Brooks, Doug. "Testimony before the House of Representatives Committee on Oversight and Government Reform," June 13, 2006, http://ipoaonline.org/en/gov/ipoa-shays.pdf.

Congressional Budget Office. "Contractors' Support of U.S. Operations in Iraq," August 2008, http://www.cbo.gov/ftpdocs/96xx/doc9688/08-12-IraqContractors.pdf.

House of Representatives, Committee on Oversight and Government Reform, "Memorandum." October 1, 2007, at http://oversight.house.gov/documents/20071001121609.pdf.

Human Rights First. "Private Security Contractors at War: Ending a Culture of Impunity." Washington, DC, 2008, at http://www.humanrightsfirst.info/pdf/08115-usls-psc-final.pdf.

Isenberg, David. "A Government in Search of Cover: PMCs in Iraq," Conference paper, prepared for "Market Forces: Regulating Private Military Companies." New York: New York University School of Law, Institute for International Law and Justice. March 23–24, 2006, http://www.basicint.org/pubs/Papers/pmcs0603.pdf.

Web Sites and Other Supporting Materials

International Peace Operations Association (IPOA)
www.ipoaonline.org

Private Security Company Association of Iraq
www.pscai.org/index.html

Private Military and Private Security Companies
www.privatemilitary.org/home.html
CorpWatch on "war and disaster profiteering"
www.corpwatch.org
Project on Government Oversight
www.pogo.org

Videos to Show in Class

PBS Frontline "Private Warriors"
http://www.pbs.org/wgbh/pages/frontline/shows/warriors/contractors/highrisk.html

NBC Nightly News, in-depth look at private security contractors (several news clips)
http://video.msn.com/video.aspx?mkt=en-us&search=private+security

Aegis Defense Services shooting at civilians ("Trophy Video")
http://www.youtube.com/watch?v=wMzx_P0m2aY

POSTSCRIPT

On February 13, 2009, in response to being fired by the State Department from its job protecting diplomats in Iraq, Blackwater USA officially changed its tarnished name to Xe. With its new name, the company hopes to be a "one-stop shopping source for world class services in the fields of security, stability, aviation, training and logistics," according to a memo by company president Gary Jackson.[114]

The division that handles protective security services is now called U.S. Training Center, Inc. Its primary focus will be operating training facilities, including Blackwater's flagship campus in rural North Carolina.

Author Jeremy Scahill commented on the name change: "Blackwater's deadly record has clearly made the company an international symbol of the out of control violence of the Bush era in Iraq and the rise of modern-day mercenaries, so it is understandable why the company would try to change its name at this moment in history."[115]

At the time of the Blackwater announcement, the State Department advertised for the latest round of security posts overseas. In an effort to end its reliance on contracting firms like Blackwater, the Department of State is hiring as many as seven hundred security protective specialists at an annual salary of $52,000 plus additional danger pay and post differential up to about 70 percent of the base salary.

The State Department acknowledges that new hires may encounter some fairly rigorous working conditions. The job "may require jumping, dodging, lying prone, as well as wrestling, restraining and subduing attackers, or detainees." And after the initial tours in Afghanistan, Iraq, or Israel are completed, employees could very well be transferred to "other high threat posts overseas."

The posting specifies that specialists will be trained in the use of firearms, personal defensive tactics, driving skills, emergency medical procedures, and protective security techniques at a thirteen-week training session before being deployed.[116] The job announcement was closed on February 17.[117]

NOTES

114. See http://www.abcnews.go.com/blotter/blackwater/story?id=6873331&page=1 (accessed March 19, 2009).

115. Ibid.

116. See http://www.abcnews.go.com/blotter/blackwater/story?id=6873331&page=1 (accessed March 19, 2009).

117. For details, see http://www.state.gov/m/ds/career/ (accessed March 19, 2009).

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