



U.S. and Iraqi soldiers, Mosul, Iraq. (U.S. Navy photo)

Chapter 1

Agencies over-rely on contractors for contingency operations



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Contingencies in general—and those in Iraq and Afghanistan in particular—are operations involving the U.S. military and civilian agencies, often requiring deployment of federal civilians and contractors under conditions that make freedom of movement dangerous, and entailing dynamic and rapidly changing support requirements.¹

Defense undertakes the preponderance of activity in the Iraq and Afghanistan contingency operations, executes a majority of the transactions for contractor-support services, and is therefore the primary focus of the Commission's reform agenda. The Commission also assesses State and USAID, the other two federal agencies with a significant role in contingency-contracting operations, and addresses related areas of concern in this final report.

The Commission's assessment of contingency contracting focuses on the formation and execution of contracts and grants in support of the wartime missions in Iraq and Afghanistan. Despite this focus, the Commission's recommendations for reform have broader applications for peacetime contracting and affect future contingencies.

U.S. agencies engaged contractors at unprecedented levels to help achieve mission objectives in Iraq and Afghanistan and to support U.S. military service members and civilian employees deployed there. The failure to effectively prepare to rely on contractors became all too clear as these two contingencies

Patrol in Helmand Province, Afghanistan, 2009. (U.S. Marine Corps photo)



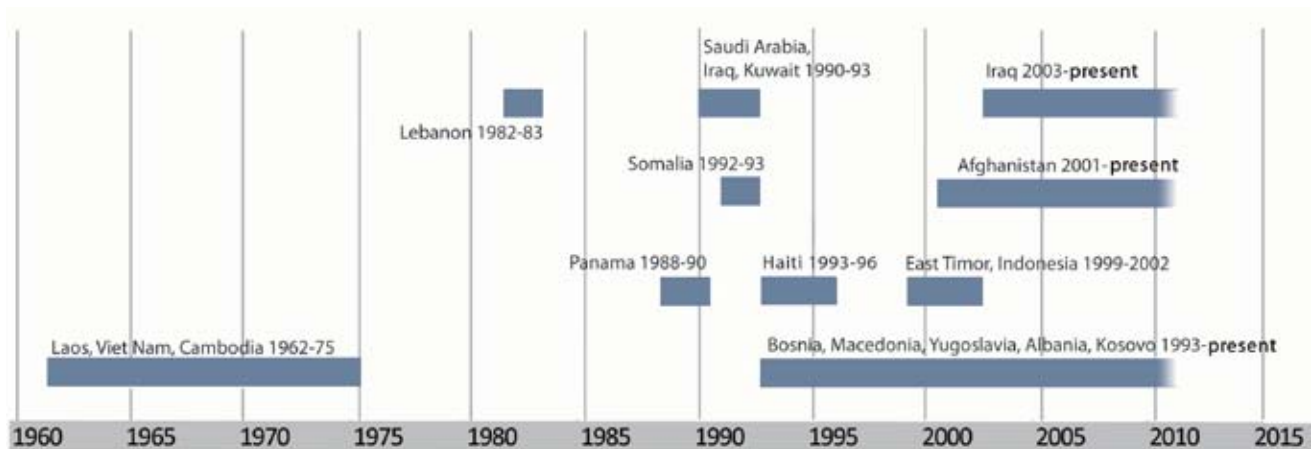
1. 10 U.S.C. 101(a)(13): This section defines a contingency operation as "a military operation that—(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (B) results in the call or order to, or retention on, active duty of members of the uniformed services under [other portions of this title] . . . or any other provision of law during a war or during a national emergency declared by the President or Congress." Civilian agencies' definitions of contingencies broadly reflect the language for Defense.

evolved over the last decade and the number of contractors and the scope of their work overwhelmed the government’s capacity to manage them effectively.

The use of contractors in the United States’ earlier contingencies did not overtax agencies’ capacity to support, manage, and oversee them because the contingencies’ scope or duration were comparatively smaller or shorter than the ongoing operations in Iraq and Afghanistan.² However, in every year of the past 23 years, the United States has been engaged in an overseas-contingency operation. For the past 12 years, the United States has always and simultaneously been engaged *in two or more* overseas regions.

The United States has engaged in 56 “ventures abroad” for other than normal peacetime purposes since 1962, and Figure 1 illustrates that the United States has conducted 10 land-based deployments lasting a year or more during this time period.³

Figure 1. U.S. Forces Abroad, 1962 through 2011



Source: Commission analysis of CRS Report R41677, “Instances of Use of United States Armed Forces Abroad, 1798-2010,” March 10, 2011.

2. The scope and duration of previous contingencies are outlined in CRS Report R41677, “Instances of Use of United States Armed Forces Abroad, 1798-2010,” March 10, 2011.

3. Ibid., 1. Note: Ventures abroad include those “instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests.”

Preparing to manage contractors for overseas-contingency operations neither signals U.S. intent nor creates a momentum to launch a military operation. The geopolitical environment of recent years and in the foreseeable future provides ample reason to plan for the possibility that the United States may again become involved in overseas-contingency operations that require extensive contractor support.

The unexpected and swift development of a campaign executed by the United States and NATO to suppress the Libyan government's attacks on its citizens is a

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recent case in point. Unrest in Somalia and Yemen also raises the potential of a contingency operation that might require contractor support and stabilization-and-reconstruction operations.

The logical implication of this geo-political environment is that contractors will remain a significant element of the U.S. government's total

force. The Under Secretary of Defense for Acquisition, Technology, and Logistics recently testified before the Commission, saying, "We're simply not going to go to war without contractors."⁴

This chapter describes the extent of agencies' reliance on contractors for support in Iraq and Afghanistan; the characteristics of contingency contracting over the past ten years; and the serious political, operational, and fiscal risks of reliance on contractors during contingency operations.

The extent of reliance on contractors in contingencies

Indicators of over-reliance on contingency contractors

The number of contractor employees supporting Defense, State, and USAID operations in Iraq and Afghanistan exceeded 260,000 in 2010—a number larger than the U.S. military and federal-civilian workforce in theater. More than 80 percent of the contractor employees were local or third-country nationals, not U.S. citizens.

4. Dr. Ashton B. Carter, Under Secretary of Defense for Acquisition, Technology, and Logistics, Commission hearing, March 28, 2011, transcript, 39. Note: A list of all Commission hearings, arranged by date, appears in Appendix D of this report. Statements, transcripts, and other hearing materials will remain publicly available on the Commission website, www.wartimecontracting.gov.

The tasks that agencies have relied on contingency contractors to perform, coupled with their ineffective management of many contractors in Iraq and Afghanistan, have bred an unhealthy over-reliance that is too risky and costly to repeat.

Contractors are performing functions that law or regulation require government employees to perform. The large number of contractors erodes federal agencies' ability to self-perform core capabilities, and their presence at times has created unacceptable risks to mission or other key U.S. objectives.

The Commission's hearings, research, and discussions with officials at all levels of the acquisition community confirm that Defense and civilian agencies do not effectively assess the legality or the risks of contracting for functions.

Agency officials' decisions to heavily rely on contractors for professional and technical expertise has shifted the balance of knowledge to the extent that the government has lost much of its mission-essential organic capability, making it increasingly more difficult to oversee technical performance.

Furthermore, the agencies have demonstrated their inability to manage large numbers of contractors effectively.

The decision to award contracts should not merely be based on what the law allows or what is cheapest.

Only if government officials properly manage and incentivize performance would the reliance on contractors be a rational approach for obtaining quality contingency-support services at a reasonable price.

The decision to award contracts should not merely be based on what the law allows or what is cheapest. Instead, the decision should be based on a strategic understanding of the functions being performed, a determination of the appropriateness of the use of contractors, and in the case when contractors are appropriate, the agency must have the ability to ensure effective management and oversight of contract performance. This issue is more fully discussed in Chapter 2.

What is 'over-reliance'?

In concluding that the United States is "over-reliant on contractors," the Commission is not simply looking at metrics like the contractor-to-military ratio.

Indicators of over-reliance include contracting that:

1. Extends to functions that law or regulation require government personnel perform,
2. Creates unreasonable risks to mission objectives or other key U.S. interests,
3. Erodes federal agencies' ability to self-perform core capabilities, or
4. Overwhelms the government's ability to effectively manage and oversee contractors.

Contractors outnumber service members and federal civilians

Table 1 shows that Defense, State, and USAID have awarded contracts to firms that have employed in excess of 260,000 persons in Iraq and Afghanistan. Contractor workers comprise U.S. nationals, local nationals, and third-country nationals.

Table 1. Defense, State, and USAID contractor personnel in Iraq and Afghanistan as of March 31, 2010

	Defense	State	USAID	Total
U.S. nationals	40,800	4,322	805	45,927
Local nationals	95,692	10,194	32,621	138,507
Third-country nationals	71,061	4,734	1,193	76,988
Unknown	---	60	1,149	1,209
Total	207,553	19,310	35,768	262,631

Source: GAO Report 11-1, "Iraq and Afghanistan: Defense, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel," October 2010, 44-45.

Defense dominates contracting in Iraq and Afghanistan and manages nearly 80 percent of the contractor workforce there. Comparisons over time of the number of contractors working under Defense contracts with the number of service members show that the contractor footprint in Iraq and Afghanistan generally has corresponded to the number of deployed service members they support, in roughly a 1-to-1 ratio.⁵

On the other hand, the number of contractor employees compared to the number of State and USAID federal civilian employees working in Iraq and Afghanistan has varied with the extent and scope of the diplomatic and development missions being performed. The number of contractors and grantee employees supporting State and USAID in Iraq and Afghanistan greatly exceeds the agencies' employees—18 to 1 for State, and 100 to 1 for USAID.⁶

5. See Appendix E, Figures E-1 and E-5.

6. State and USAID federal-employee footprint data collected from State on June 23, 2011. State contractor footprint data is current as of the end of FY 2010. State and USAID enter their contractor headcount into the Defense database, Synchronized Predeployment and Operational Tracker (SPOT). Updates can be obtained through inquiries to the SPOT program manager.

The ratios for State and USAID employees and their contractors/grantees reflect both the extent of the agencies' reliance on contractors and the absence of their organic capacity to perform in a contingency environment. The difference in ratios between Defense and the two civilian agencies in part reflects contractors' roles: primarily support for Defense, and mission execution for State and USAID. The higher ratios at State and USAID, however, raise questions about whether these agencies have the capacity to effectively oversee and manage this enormous component of their workforce in theater.

Based on developments in Iraq, a potential contractor surge in Afghanistan is looming after the military withdraws. Given the upcoming transition to a diplomatic mission in Iraq and the absence of an agreement on the level of U.S. contractor presence, the military withdrawal contributed to an increase in the ratio of contractors to the service members they support.⁷ Though the Status of Forces Agreement between the United States and Iraq mandates a specific military drawdown from Iraq, there is no similar stipulation for withdrawing U.S. contractors.

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Contingency-contracting characteristics

Contingency-contracting characteristics are significantly different from routine peacetime contracting:

- Contracts are managed under a variety of acquisition procedures by multiple organizations from multiple locations: in the overseas area of operations, in a nearby foreign country, and in the United States.
- An already strained acquisition workforce is further burdened by the need to deploy overseas.
- Most contracts are for services supporting the U.S. forces and civilians or actually carrying out direct-mission objectives.
- The contingency-contractor workforce comprises U.S.-based companies, host-nation, and third-country firms.
- Most contract dollars are awarded to just a few large U.S. companies.
- Much of the work is performed through multiple tiers of subcontractors, resulting in a large host- and third-country workforce.

7. See Appendix E, Figure E-1.

- Socio-economic procurement policies such as Iraqi First and Afghan First give priority to helping develop local economies and countering the insurgency.⁸
- Perhaps the most important characteristic of contingency contracting in Iraq and Afghanistan is the sheer volume of contract dollars that will have been injected into those underdeveloped economies because of the United States' presence.

Value of contingency contracts and grants

The value of contingency contracts and grants is another relevant measure of the extent of agencies' reliance on contractors in Iraq and Afghanistan. As depicted in Table 2, the U.S. has spent more than \$192 billion on contracts and grants through the first two quarters of fiscal year (FY) 2011.

Table 2. Total obligations on contracts and grants, FY 2002 through mid-FY 2011
Performed in support of operations in Iraq and Afghanistan (in billions)

	Defense	State	USAID	Total
Contracts	\$166.6	\$12.2	\$8.4	\$187.2
Grants		0.4	4.9	5.3
Total	\$166.6	\$12.6	\$13.3	\$192.5

Source: Commission calculations from: Federal Procurement Data System - Next Generation (FPDS-NG) and USASpending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

The Commission estimates that by the end of FY 2011, an additional \$14 billion will be obligated under contracts, bringing the estimated total for FY 2002 through FY 2011 to \$206 billion. Actual expenditures will be even higher because not all contracts that support contingency operations in Iraq and Afghanistan are identifiable as such.

8. The National Defense Authorization Act for FY 2008, sec. 886, authorized the Secretary of Defense to establish preference for the acquisition of products and services from Iraqi and Afghan companies.

Service contracts

Two-thirds of the money spent to date for contingency contract support in Iraq and Afghanistan was for services.⁹ Agencies obligated the most dollars for logistics support services (\$46.5 billion).

The 10 most commonly acquired services are depicted in Table 3 below. They account for 44 percent of total services obligations.¹⁰

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Table 3. Top 10 services acquired through contingency contracts

Performed in support of operations in Iraq and Afghanistan, FY 2002 through mid-FY 2011

Service description	Total (in billions)
Logistics support services	\$46.5
Construction of miscellaneous buildings	10.5
Technical assistance	5.5
Other professional services	5.2
Guard services	3.8
Maintenance and repair, alterations of office buildings	3.5
Construction of office buildings	2.9
Lease-rent or restoration of real property	2.8
Facilities operations support services	2.5
Program management/support services	2.4
Total obligations for top 10 services	\$85.6
Top 10 as percentage of total services obligations	44 %

Source: FPDS-NG and USASpending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

9. Commission calculation from: FPDS-NG and USASpending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011.

10. See Appendix E, Table E-5 for a more comprehensive list of most-often procured products and services.

Concentration of contingency contracting

Contingency-contract spending in Iraq and Afghanistan is highly concentrated. Awards to the largest four individual companies account for more than 40 percent of total obligations.

A total of 22 individually identifiable contractors received at least a billion dollars each and account for 52 percent of contract awards. The second-highest obligations category, however, is “miscellaneous foreign contractors.” The \$38.5 billion recorded for “miscellaneous foreign contractors” suggests the difficulty of compiling reliable, accurate procurement-transaction data.

Moving military equipment through the mountains, northern Afghanistan. (U.S. Army photo)



Table 4 displays the awards to the top contractors as measured by the value of the awards they have received.

Table 4. Top contingency contractors
 Performing in support of operations in Iraq and Afghanistan,
 FY 2002 through mid-FY 2011

	Vendor	Obligations (in billions)
1	KBR	\$40.8
2	<i>"Miscellaneous foreign contractors"</i>	38.5
3	Agility	9.0
4	DynCorp	7.4
5	Kuwait Petroleum Corporation	5.0
6	Fluor Intercontinental, Inc.	5.0
7	The Bahrain Petroleum Company	5.0
8	Combat Support Associates	3.6
9	ITT Federal Services International	3.4
10	The Louis Berger Group, Inc.	2.3
11	International Oil Trading Company	2.1
12	Readiness Management Support	2.0
13	L-3 Communications	1.7
14	Red Star Enterprises, Ltd.	1.7
15	IAP Worldwide Services	1.5
16	Environmental Chemical Corporation	1.5
17	Perini Corporation	1.5
18	Blackwater Lodge and Training Center	1.4
19	Contrack International, Inc.	1.4
20	Triple Canopy, Inc.	1.2
21	DAI/Nathan Group, LLC	1.1
22	Washington Group, International	1.1
23	Bearing Point, LLC	1.0
	Total obligations	\$139.2
	22-firm % of total \$192.5B spend, excluding <i>"miscellaneous foreign contractors"</i>	52 %

Source: FPDS-NG and USASpending.gov, last updated on June 12, 2011, for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

The data in Table 4 illustrate one of the serious aspects of contractor over-reliance—52 percent of the total dollars obligated on contract transactions performed in support of Iraq and Afghanistan went to only 22 individually identifiable contractors. Without proper oversight, this heavy reliance on

contractors has placed the U.S. government in the very risky and costly position for many contingency-support functions. The relatively small number of contractors performing such a large percentage of the contingency-support mission also presents potentially serious implications regarding effective competition and support for the U.S. government mission.

Table 5 illustrates that for certain products or services, the concentration of awards is dramatic.

Table 5. Contingency contractor concentration

Performing in support of operations in Iraq and Afghanistan, FY 2002 through mid-FY 2011

	Product or service description	FY 2002 to mid-FY 2011 obligations (in \$ billions)	Low concentration	Moderate concentration	High concentration
1	Logistics support services	\$46.5			X
2	Miscellaneous items	25.7	N/A	N/A	N/A
3	Liquid propellants-petroleum base	16.7		X	
4	Construction of miscellaneous buildings	10.4		X	
5	Dairy, foods, and eggs	6.6			X
6	Technical assistance	5.5		X	
7	Other professional Services	5.2		X	
8	Guard services	3.8		X	
9	Maintenance, repair, and alteration of office buildings	3.5		X	
10	Construction of office buildings	3.0		X	
11	Lease-rent of restoration	2.8			X
12	Fuel oils	2.7			X
13	Facilities operations and support services	2.5			X
14	Program management and support services	2.4		X	
15	Maintenance and repair of vehicles, trailers, and cycles	2.4			X

Source: FPDS-NG FY 2002 through end of second quarter FY 2011. Data extracted June 12, 2011.

Note: Based on obligations to the top four companies. "Low Concentration" indicates top four firms account for less than 20 percent of obligations. "Moderate Concentration" means top four firms have 20 to 80 percent. "High Concentration" means top four firms have more than 80 percent.

For six of the most commonly acquired products and services, no more than four contractors accounted for over 80 percent of the awards. For logistics support services, a single contractor accounted for nearly 80 percent of the contract dollars.

Another individual contractor accounted for 67 percent of the funds obligated for the maintenance and repair of vehicles.

The second largest category is for “miscellaneous items,” once again suggesting the difficulty of compiling reliable, accurate procurement-transaction data.

Acquisition workforce

The federal acquisition workforce includes all officials who play a role in the contingency-contracting mission and who must now oversee a large number of complex service contracts. The growing complexity and volume of the workload has outpaced agencies’ capacity to manage it. One critical indicator appears in the Department of Defense’s 2010 Quadrennial Defense Review, which reported that the number of Defense acquisition professionals had declined by 10 percent during a decade that saw contractual obligations triple.

While Defense has a dedicated acquisition workforce and a mature process for acquiring and managing commodities and major weapons systems, there has been no comparable government-wide focus on the acquisition of contingency-support services. Service contracting has inadequate training programs, and the few program-oversight and management processes that are in place have proven ineffective.

The significant increases in procurement budgets since contingency operations began in Iraq and Afghanistan did not effectively translate into a heightened emphasis on planning, awarding, and managing the additional billions in contingency contracts and grants.¹¹

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Provincial Reconstruction Team members with Afghan contractors at hospital expansion site. (U.S. Air Force photo)



11. Commission calculation from: FPDS-NG and USAspending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

Risks of using contingency-support contractors

There are several reasons agencies rely on contractors for contingency-support services:

- statutory and budgetary limits on the number of military service members and federal employees;
- military services' having concentrated limited resources on combat functions, which led to a degradation of organic capability;
- long lead times for employee recruitment and development;
- voluntary deployment conditions for most federal civilian personnel; and
- assumptions of cost-effectiveness for using contractors.

The size of military services and the federal government workforce have long been a point of political debate. Given the constant imperative to accomplish more with a depleted federal workforce, the result has been a gradual increased reliance on

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contractors. As new and expanded missions were added with time-critical needs, contracting for contingency-support services became the default option. Awarding contracts to provide services also made the federal workforce appear smaller, producing what is known as the "shadow workforce."

In a contingency environment, reliance on contractor support may introduce operational, political, and financial risks not present in peacetime.

The underlying truth is that the total cost of using contractors includes more than just the price of the contract. Depending on an outside source creates unavoidable risks. The risk factors include:

- operational risk to achieving the defense or development mission,
- political risk to achieving U.S. goals and foreign-relations objectives, and
- financial risk of dollars lost to contract fraud and waste.

The level of risk will depend on many factors, including the culture and characteristics of the host country, the location of battles, the phase of the contingency, the type of activity, and the quality of government oversight.

Fiscal concerns also complicate the success of ongoing and future contingency contracting.

Operational risks

The extensive use of contractors frees the military to use service members primarily for warfighting. However, relying on contractors for so much professional and technical expertise eventually leads to the government's losing much of its mission-essential organic capability.

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Short-term and inconsistent rotation periods across the different military services and civilian agencies contribute their own set of problems for continuity of contract management and oversight. During a contract-performance period, oversight and management may have been passed between multiple contracting officers and contracting officer representatives without a thorough transfer of knowledge. Because of the military and civilian agencies' frequent rotations, contractors often become the keepers of historical knowledge. Thus, government officials in some cases gradually cede de facto control over defense, diplomatic, and development activities to them.

This heavy reliance on contractors requires a fully capable and fully deployable acquisition infrastructure and workforce. In addition, non-acquisition officials who possess the necessary subject-matter expertise to perform requirement analysis, program management, and contractor oversight are especially needed.

Political risks

Particularly important is the impact on U.S. objectives resulting from the government's extensive use of contractors. Using local contractors not only supports the local economy, but often helps the United States develop a good rapport with the host-nation government and communities.

However, rapidly pouring large amounts of money into Afghanistan's local economy, which has limited absorptive capacity, has contributed to inflation, distorted normal economic activity, and encouraged fraud and corruption. Also, once the United States leaves, the economy will be disrupted because many of the local nationals

Local contractors at school construction site near Mahmudiyah, Iraq. (U.S. Army photo)



who are employed by the U.S. government and U.S. contractors may once again become unemployed or under-employed. The risk is that the United States withdrawal will undermine its objectives by leaving local laborers vulnerable to recruitment by the Taliban or other insurgent groups.¹²

Serious public-opinion backlash in the local communities and governments can also occur after contractors are accused of crimes. Public opinion can be further inflamed because jurisdiction over contractors is ambiguous, legal accountability is uncertain, and a clear command-and-control structure is absent. A prime example of this risk becoming reality occurred in 2007 with the killing of 17 Iraqi civilians in Baghdad's Nisur Square by employees of the company then known as Blackwater. The armed security guards were under contract by State. Perceptions of improper or illegal behavior by contractors who suffer few or no consequences generate intense enmity and damage U.S. credibility.¹³

The extensive use of contractors obscures the full human cost of war. The full cost includes all casualties, and to neglect contractor deaths hides the political risks of conducting overseas contingency operations. In particular, significant contractor deaths and injuries have largely remained uncounted and unpublicized by the U.S. government and the media.



Preparing an injured contractor for transport from a coalition hospital in Herat, Afghanistan. (U.S. Air Force photo)

12. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign assistance to Afghanistan," June 8, 2011.

13. National Bureau of Economic Research Working Paper Series, Working Paper 16152, "The Effect of Civilian Casualties in Afghanistan and Iraq," July 2010, 1-5.

Table 6 below displays U.S. military fatalities and those reported by foreign and domestic contractors supporting the United States in Iraq and Afghanistan.

Table 6. Military and contractor fatalities
Iraq and Afghanistan

	Iraq Mar 2003–Jul 2011	Afghanistan Oct 2001–Jul 2011
U.S. military fatalities	4,464	1,667
Contractor fatalities	1,542	887

Source: Military casualties reported by the Department of Defense Statistical Information and Analysis Division, Defense Manpower Data Center, as of July 25, 2011. Contractor fatalities reported on the Department of Labor (DoL) website, Division of Longshore and Harbor Workers' Compensation, Defense Base Act Summary, as of June 30, 2011. Many foreign contractor employee deaths are believed not to have been officially reported by the firms that employed them. No definitive accounting for federal civilian-employee deaths in Iraq and Afghanistan has been located.

The recent withdrawal of combat units from Iraq and the surge in Afghanistan have resulted in increased contractor casualties. Between June 2009 and March 2011, contractor deaths, including local- and third-country nationals, exceeded the military's in both countries.¹⁴ Moreover, contractor deaths are undoubtedly higher than the reported total because federal statistics are based on filed insurance claims, and many foreign contractors' employees may be unaware of their insurance rights and therefore unlikely to file for compensation.

Between June 2009 and March 2011, contractor deaths in both Iraq and Afghanistan exceeded military deaths.

Financial risks

There are significant negative financial effects of the U.S. government's current reliance on contractors in the Iraq and Afghanistan contingencies. Extensive contingency-contract waste, fraud, and abuse are the most obvious. While using contractors for support services can lead to lower costs, agencies could save even more if they were to increase the use of competitive procedures and improve their contract management.¹⁵

14. Department of Labor, Division of Longshore and Harbor Workers' Compensation, "Defense Base Act Summary," June 23, 2011. Note: On its website, the Department of Labor disclaims accuracy of these numbers, saying, "These reports do not constitute the complete or official casualty statistics of civilian contractor injuries and deaths. They are offered as general information to the public who may be interested in the scope of civilian government contracting overseas."

15. Appendix F discusses cost comparisons between contractor and government task performance.

Most important, the extent of contracts being performed without adequate oversight and contract management has resulted in unacceptable vulnerability to contract waste and fraud. The Commission estimates that contract waste and fraud ranged from \$31 billion to \$60 billion during military operations in Iraq and Afghanistan—at the mid-range of the estimate, this amounts to \$12 million every day for the past 10 years.

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Some degree of waste and fraud has always accompanied the uncertainties of war. But much of the waste and fraud in Iraq and Afghanistan that resulted from ineffective contingency contracting was foreseeable and avoidable.

The Commission predicts that many programs, projects, and contracts that are simply not sustainable by the governments of Iraq and Afghanistan will reveal even more waste in the months and years ahead. Another significant cost of overseas-contingency contracting is diversion—payments commonly made for safe passage of U.S. convoys and for protection of U.S. personnel performing reconstruction projects. Contingency-contract waste and fraud are bad enough; worse yet is that some of the wasted dollars are diverted to warlords and insurgents in Afghanistan.

Fiscal concerns

For the past 10 years, overseas contingency-operations funding has been designated as “emergency spending,” and funded through supplemental appropriations. They have been excluded from the regular budgetary process. This approach can distort the apparent size of the federal budget submission by segregating substantial proposed expenditures as subsequent supplemental submissions.

Seemingly unlimited funding for contingencies through supplemental appropriations allows agencies to avoid a prioritization of their program requirements in support of the war effort. The supplemental budget also obscures the full cost of contracting and creates the illusion that contractors in the war zone are a free resource.

The ongoing debate about the federal budget and the deficit is likely to translate into reductions in the size of the military and federal-civilian workforce, but not a corresponding reduction in national-security missions. This “do the same with less”

outcome—or an even riskier “do more with less” outcome—may drive an even heavier over-reliance on contractors than has been seen in the past decade.

Faced with a mandate to reduce staffing, the bureaucratic instinct is usually to put acquisition staff on the chopping block first. Unfortunately, these are the same professionals the agencies would need to plan, manage, and oversee the additional contracts that would be signed to compensate for a reduced federal workforce and keep up with unrelenting mission pressure. Likely result: a dangerous spiral of growing over-reliance on contractors and shrinking management capability.

Because the U.S. government relies on only a handful of contractors to provide most of the support for the contingencies in Iraq and Afghanistan, this reliance potentially presents a situation analogous to the U.S. financial industry’s “too big to fail” calamity.

Another concern could arise from a tension between private and public interest. A company’s main motivation—indeed, its fiduciary duty—is to produce earnings to compensate its owners for the use of and risks to their capital. This is not a judgmental statement, simply a factual observation.

In a competitive market that limits a single firm’s ability to raise prices, an obvious way to increase or maximize earnings is to cut costs. Cost reduction might take the form of efficiency improvements that do not degrade quality, or might even improve it—but could also take the form of lower-quality materials, reduced training, or lower performance standards that *do* affect quality. It should be noted that a firm operating under a cost-plus government contract may face a different incentive structure.

While a company’s self-interest in winning and retaining government contracts could prompt it to focus on efficiency, short-term pressures or a profit-maximization drive may lead it to cut corners. By contrast, the public’s interest is in maximizing the quality of every good or service being provided under contract. This inescapable tension between private and public motivation requires that government contract managers carefully monitor and scrupulously evaluate a company’s performance. That is a difficult task in the best of circumstances, and an extraordinarily difficult one in a wartime setting.

This “do the same with less” outcome—or an even riskier “do more with less” outcome—may drive an even heavier over-reliance on contractors than has been seen in the past decade.

Lessons from 10 years of contingency contracting in Iraq and Afghanistan have led to many legislative, regulatory, and policy changes designed to improve processes and outcomes. However, better outcomes from these incremental improvements have in some cases not yet materialized, and in other cases have not been fully realized.

The costs are too great and the risks are too high—both to the outcomes of current operations and to future contingencies—for the U.S. government not to commit

Implementing real improvement to the contingency-contracting process could enhance the entire federal acquisition system.

resources to improving the contingency-contract function. Because many of the high-risk issues in contingency contracting mirror those that have also proven problematic in the overall federal acquisition system, implementing real improvement to the contingency-contracting process could enhance the entire federal acquisition system.

Contingency-contracting improvements are in danger of atrophy once operations in Iraq and Afghanistan recede and the current leaders who champion these improvement initiatives shift their attention elsewhere or are replaced. Yet the federal

government's current fiscal constraints provide a challenge for ensuring continued leadership emphasis and for commitment of the resources necessary for enduring improvements to the contingency-contracting mission.

The government's options could include a selection or combination of:

- increasing the size of the federal workforce;
- decreasing the use of contractors; and
- reconsidering the number, nature, and scope of the overseas contingency operations.

Outline of report content

The next chapter in this report provides Congress and the contingency-stakeholder community with the Commission's recommendations for determining the appropriate use of contractors, including private security contractors. Chapter 3 provides numerous examples of waste, fraud, and abuse, and connects them to the problems of agency-oversight and poor contractor performance.

Because so much of contingency-contract waste has yet to be realized, Chapter 4 warns of project-sustainability issues and provides recommendations for mitigation.

A major factor in avoiding waste from unsustainable projects in a contingency environment is the elevation of the contingency-contracting function and interagency coordination. Chapters 5 and 6 provide recommendations for agencies to implement a strategic, whole-of-government approach to contingency contracting.

Chapter 7 provides recommendations for improving accountability for contracting outcomes by strengthening contingency-contract competition, performance management, and enforcement. Finally, Chapter 8 provides recommendations to advance Congress' objectives for contingency-contracting reform after the Commission's sunset at the end of the 2011 fiscal year.

Afghans at U.S.
project site.
(Defense photo)

