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The Huffington Post

Strategic Contractors

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08/31/2012

"The U.S. government relies heavily on contractors in Afghanistan, but multiple reports have raised alarms about the lack of robust oversight and accountability for multi-billion dollar investments."

One thing we've observed from the last decade of wars in Iraq, Afghanistan, and elsewhere is that behavior on the ground can decide success or failure more than just about anything else. For good but especially for bad, the actions of anyone within range of YouTube can have impact on the world's perception of the whole enterprise or the entities sponsoring it, potentially wrecking the good work of many and the investment in blood and treasure. The military refers to this as the "strategic corporal," conveying the notion that leadership and responsibilities as well as potential strategic impacts have been devolving all the way down to the lowest ranking non-commissioned officer. There have been plenty of negative examples in the mainstream media -- from Abu Ghraib to the string of stupid acts like urinating on corpses earlier this year. What we're also starting to figure out is that this phenomenon isn't unique to the military or wartime situations.

Indeed, the business community has longed coined the term, "corporate social responsibility" to describe (in the very same globalized world) an organization's obligation to consider the interests of their customers, employees, shareholders, communities, and the ecology, along with the social and environmental consequences of their business activities. By integrating "CSR" into core

business processes and stakeholder management, organizations can achieve the ultimate goal of creating both social value and corporate value -- capitalism with a human face.

You would think, then, that if anybody should get this, it would be the hidden army of contractors working on behalf of the U.S. government, given that a good many of these private sector players are military veterans. For too many of them, unfortunately, this is not the case.

This is not to bash contractors, most of whom do honorable work and their best to meet their fiduciary responsibilities to the American taxpayer as well as support the troops, often at great risk -- more than 1,230 civilian contractors never made it home alive since 9/11, or more than half the number of troops killed so far in Afghanistan. Still, as a recent Senate Foreign Relations Committee report put it: "The U.S. government relies heavily on contractors in Afghanistan, but multiple reports have raised alarms about the lack of robust oversight and accountability for multi-billion dollar investments."

Under the administration now up for re-election, a fair amount of the good, the bad and the ugly has migrated to Central Asia as a result of the draw down in Iraq. The exploits of Halliburton, Blackwater, and others in Iraq in waste, fraud, mismanagement, and just plain bad behavior under the last administration are notorious. In Afghanistan, the problem appears to have become even more pervasive.

Perhaps the most outstanding example is Anham FZCO, a construction and logistics contracting company created by Saudi Arabian, Jordanian, and U.S. principals that was called out by the Special Inspector General for Iraq Reconstruction for numerous breaches of good corporate conduct, including overcharging the government as much as 13,000%, murky accounting and purchasing systems, "questionable competition practices, inappropriate bundling of subcontractor items and close working relationships or possible ownership affiliations between

Anham and certain subcontractors." Anham has also been accused of failing to pay subcontractors, including scores of local truckers kicked out of their compounds after complaining of non-payment for three years and non-receipt of the trucks they bought through their labor.

In June, Anham received an award for food services for the U.S. forces in Afghanistan, contracts valued at nearly \$10 billion that, with follow-on contracts lasting up to nearly six years (including the troop withdrawal period), could be valued as high as \$24.3 billion. Anham takes over from Supreme, itself having enjoyed a sole-source contract award from the Defense Logistics Agency (DLA). The food-supply contract regimes in Iraq as well as in Afghanistan have been a "textbook example of the high cost to taxpayers when the U.S. military becomes dependent on one supplier in a war zone." Making sure that "there's someone there providing food" has cost taxpayers up to \$50 or more per soldier per meal. That's a lot of filet mignon -- if only it was.

Anham, Supreme, and many others are under investigation by the Special Investigator for Afghanistan Reconstruction (SIGAR), which in its most recent quarterly report to Congress noted that "a decade of struggle and bloodshed has not cleared the landscape of serious

problems," to put it mildly. After a three-year investigation, the Commission on Wartime Contracting found that the government lost between \$31 billion to \$60 billion since 2002 as a result of "avoidable waste" -- between 15% to 30% of the \$200 billion spent on wartime contracts in Iraq and Afghanistan.

A good number of the same firms under U.S. scrutiny are under Afghan government investigation for licensing, tax evasion, non-payment of subcontractors, and other shady practices -- except that Afghan authorities, beyond some of them being corrupt themselves, are undermanned, under resourced, and impeded by the contractors, who hide inside U.S. bases, as well as at times the U.S. military itself, preferring not to have its suppliers arrested by Afghan police in the name of military necessity.

Some contract service providers, however, in trouble with the Afghan government have so far escaped American inspection. Take the case of Liberty Logistics, LLC, one of a group of four to receive a non-competitive re-award at the start of this month from the U.S. Transportation Command to provide international commercial multimodal transportation services for up to three years, totaling a minimum of nearly \$366 million and as much as \$1.6 billion. Yet, the Afghan Attorney General has investigated and indicted Liberty and others for unlicensed business in Afghanistan as well as failure to pay subcontractors. As such violations are also breaches of U.S. law, cases are mounting in federal court as civil suits because SIGAR and other U.S. authorities have yet to take action, perhaps in fear of upsetting the supply chain. The Afghan Attorney General has requested additional documentation from U.S. courts, which have yet to respond.

In addition to military contracts, large portions of reconstruction projects in Afghanistan "fall to dust" within a few years due to poor quality material, corruption, lack of oversight and continuous control monitoring. "Average people in the countryside get roofs that leak, bricks that crumble and maintenance costs that are completely unsustainable," noted Director of Advocacy & Communication for Integrity Watch Afghanistan Karolina Olofsson last year. She also pointed out:

"While it is true that Afghanistan suffers from weak governance structures, low budget execution and high corruption, these are not the only contributors to Afghanistan's problems. The international private companies that acquire development contracts and operate outside the realms of transparency and beneficiary accountability are also a large part of the problem. The Afghan citizens, who should be the first priority, are dismissed from their own development process. Contracts are signed in the U.S. where only American jurisdiction applies, and the agencies responsible for holding these companies accountable are the farthest away from the problems."

All of this and more is, nevertheless, "the tip of the iceberg," as Commission chairman Dov Zakheim referred to when disclosing the large-scale involvement at worst and less than benign neglect at best of a significant number of U.S. contractors and subcontractors in human trafficking on the Hill last year. The outbreak and outrage have led to the Ending Trafficking in Government Contracting Act of 2012, which recently passed in Congress but is still awaiting presidential signature.

It's one thing to squander money. It's another to do the same with life, liberty, and the pursuit of happiness. What we're supposed to stand for.

The bad or negligent behavior of too many contractors can be explained (or is covered), in good part, by a culture of impunity that has emerged, driven by an overwhelming and overzealous focus on "mission accomplishment" at just about every cost. The DLA spokesman, when explaining the contracts awarded to Anham, said they would "guarantee that there's no interruption in the support that we give to the war fighter." Nothing's too good for the troops, no matter how badly we get it to them.

Punishments have been rare and weak. In December 2010, the Afghan government jailed -- for a short period of time -- the American head of DynCorp partner Red Sea Engineers, the second-largest recipient of U.S. Joint Contracting Command in the country of payments (nearly \$500 million), for failure to pay subcontractors. A few months later, the U.S. Central Command suspended Bennett-Fouch and K5 Global (both owned by American businesswoman Sarah Lee) for having failed to pay their subcontractors and then fleeing the country. Although they face possible disbarment, the firms' 18-month suspension is more like a slap on the wrist, and it "does nothing to help Afghan businessmen who say the companies owe them millions of dollars for work they did building American bases."

The deliberate failure to pay subcontractors may be the most far-reaching issue, because it lies at the heart of not just the credibility and legitimacy of all contractors, but of the whole American presence in Afghanistan. It flies in the face of American values of fairness and honesty -- in and out of business. In Kandahar alone, one of the most contentious and strategic provinces there, as many as 10 major Afghan subcontractors are unpaid by their U.S. primes -- in the trucking business alone.

Other than the troops themselves, nearly 100,000 Afghan workers -- from truck drivers to interpreters working for large families, themselves connected to many times more local beneficiaries through economic activities comprising 80% of the gross national product there -- draw their most profound and lasting impressions from Americans they come into contact with. Word of mouth, as we say here, is the best form of advertisement. Or, as one Afghan-American business executive put it: "If you make someone happy, they may tell someone; if you piss them off, they will tell 10."

We should not wonder why we're having trouble winning hearts and minds in Afghanistan. Moreso, the legacy we're leaving behind may put us in a more dangerous position than before 9/11.

The U.S. government, long asleep at the switch, is finally taking more serious action, other than the human trafficking legislation. Senate Bill 2139, the Comprehensive Contingency Contracting Reform Act of 2012, contains a laudable series of legal and regulatory corrective actions, some of which are disputed between the Departments of Defense and State. It still does not represent a whole-of-government policy or strategy on contractors, and it will be months after the election before it is enacted.

The contractor "community" itself has made efforts under the International Stability Operations Association, to "promote high operational and ethical standards of firms active in the peace and stability operations industry." ISOA, however, should not be the main instrument by which the United States provides ethical oversight of the private sector, because the stakes are far too high and the margins of error far too small.

In the meantime, the concoction of corruption and resentment builds like a pressure cooker, waiting to boil over or, at worst, explode and ruin what is left of American interests in Afghanistan and the hard work and sacrifices made there. As SIGAR last reported: "There is still time to boost efficiency, prevent waste, identify wrongdoers, suspend or debar bad contractors, prosecute crimes, recover losses, and take other steps to improve program and mission outcomes. But the window of opportunity is closing."

The strategic corporal and the strategic contractor dwell in the same space, where walking the walk is far more important and lasting than talking the talk. As soldiers are learning, contractors are also ambassadors of their country and the culture. Contracting must be viewed like any other security or development activity -- strategically. That begins with leadership and vision from the top.