

STRATEGY RESEARCH PROJECT

**THE LOGISTICS CIVIL AUGMENTATION PROGRAM:
WHAT IS THE STATUS TODAY?**

by

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ABSTRACT

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Throughout its history the United States Army has utilized civilian contractors on the battlefield to provide support for its forces around the world. Since the Vietnam conflict, however, the level of contracted support has for a variety of reasons continually expanded. In the course of providing this support several issues have caused friction and have been the subject of a lot of debate and previous research. These issues include contractor legal status, force protection, discipline, accountability, location on the battlefield, responsiveness, flexibility, readiness, and defined doctrine development. This Strategic Research Project looks at each of these issues as they apply to contractors on the battlefield in general, and the Logistical Civil Augmentation Program (LOGCAP) in particular, and assesses the advances, or lack there of, that have been made in the last decade to resolve each issue. It concludes with the way ahead for the US Army and LOGCAP as we continue into the twenty-first century.

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THE LOGISTICS AUGMENTATION PROGRAM: WHAT IS THE STATUS TODAY?

America's fighting forces are the finest in the world. But the U.S. military is more than its fighting forces. It is a broad complex of military, civilian, and contract personnel who equip, support, and sustain – in hundreds of thousands of ways every day – the men and women who put their lives on the line.¹

—Donald H. Rumsfeld, Secretary of Defense
13 August 2003

Throughout its history the United States Army has utilized civilian contractors on the battlefield to provide support for its forces around the world. Since the Vietnam conflict, however, the level of contracted support has for a variety of reasons continually expanded. In the course of providing this support several issues have caused friction and have been the subject of a lot of debate and previous research. These issues include contractor legal status, force protection, discipline, accountability, location on the battlefield, responsiveness, flexibility, readiness, and defined doctrine development. This Strategic Research Project looks at each of these issues as they apply to contractors on the battlefield in general, and the Logistical Civil Augmentation Program (LOGCAP) in particular, and assesses the advances, or lack thereof, that have been made in the last decade to resolve each issue. It concludes with the way ahead for the US Army and LOGCAP as we continue into the twenty-first century.

BACKGROUND

Throughout its history, the Army has used contractors to support operations.²

—FM 3-100, *Operations*
14 June 2001

Understanding the true nature of contractors on the battlefield today requires insight into the different types of functions they provide, a look at the history of contractor support to the U.S. military as well as the history of the LOGCAP program.

TYPES OF CONTRACTORS ON THE BATTLEFIELD

United States doctrine today, as laid out in Joint Pub 4.0,³ FM 3-0,⁴ and FM 3-100.21,⁵ breaks down contractors on the battlefield into three primary types. These are systems, external support, and theater support contractors.

Systems contractors support specific material systems throughout their life cycle in both war and peace. These prearranged contracts are awarded by the program manager/evaluation office or the US Army Material Command (AMC). Supported systems include vehicles, weapon systems, aircraft, command and control systems, and communications equipment.

External support contracts are awarded by contracting offices outside of a theater of operations by supporting agencies such as AMC or the United States Army Corps of Engineers (USACE). They are designed to provide a variety of combat support (CS) and combat service support (CSS) to deployed forces in the theater of operations and can be either prearranged or let during the contingency. The Army's LOGCAP program is an external support contract.

Finally, there are theater support contracts, also known as contingency contracts. These provide goods, services, and minor construction, to meet the immediate operational needs of the commander.⁶ The key difference between these and external support contracts is that they operate under the contracting authority of the theater in which they take place while external support contracts are let under contracting authority external to the theater.

HISTORY OF CONTRACTORS ON THE BATTLEFIELD

The United States Army has utilized contractors on the battlefield throughout its history. The nature and characteristics of this support, however, has changed over time. This evolution breaks down into four distinct periods of contracted support and/or contract management.

The first of these periods is the longest, running from the American Revolution to just before World War II. It is characterized by the U.S. Army's requirement for contracted subsistence for personnel and horses, clothing, and transportation in varying amounts.⁷

A second period of civilian contractors on the battlefield was ushered in by World War II and the advent of the systems contractor. It was characterized by traditional logistics support contracts as in the first period plus a number of systems contractors. As Dr. Charles Schrader states in a Landpower essay he wrote for the Association of the United States Army,

For the first time in World War II, the manufacturer's technical representative became a prominent feature in forward areas ... in some cases, tech reps were even found in the front lines seeking solutions to technical and operational problems regarding equipment supplied by their firms.⁸

The trend towards increased system contractors on the battlefield continued in the Korean Conflict as did the contracting of support services, primarily in the fields of labor and transportation.

The third distinct period in the U.S. Army's use of contractors was introduced in the Vietnam Conflict and continued through the Gulf War. In Vietnam, contractor employment patterns changed. They were now side by side with soldiers, for the first time an essential portion of the overall logistics support equation within the theater of operations with a broader range of duties.⁹ In addition to expanded logistical functions, contractors also took over a number of construction projects to include the building of a number of base camps and the Cam

Rahn Bay naval facility.¹⁰ The nature of this contracting effort, however, was very ad hoc contingency contracting involving hundreds of separate vendors making contract management problematic. Though Army logisticians formalized a preplanned methodology for contracted support in December 1985 with the publication of AR 700-137, *Logistics Augmentation Civil Program (LOGCAP)*, the Army was slow to capitalize on this concept and when U.S. forces deployed for Operation DESERT SHIELD no LOGCAP contract was in place.¹¹ This resulted in a robust but once again ad hoc and decentralized contracting effort in the Gulf War, much on the lines of the Vietnam conflict before it.

Following the Gulf War, the U.S. Army entered its fourth period of contractor support: the development and use of LOGCAP as a warm base centralized contracting hub for providing support services to soldiers on the battlefield.

Table 1 provides a good historical summary of the use of contractors by the U.S. Army. It shows civilian contractor to military participation ratios for America's wars from the Revolution to the Gulf War and graphically displays that sizeable civilian contractor participation has always been a significant part of the American way of war:

WAR/CONFLICT	CIVILIAN CONTRACTOR	MILITARY	RATIO
Revolutionary War	1,500 (est.)	9,000	1:6 (est.)
Mexican War	6,000 (est.)	33,000	1:6 (est.)
Civil War	200,000	1,000,000	1:5
World War I	85,000	2,000,000	1:20
World War II	734,000	5,400,000	1:7
Korean Conflict	156,000	393,000	1:2.5
Vietnam Conflict	80,000	359,000	1:4.5
Arabian Gulf War	14,400	541,000	1.38

TABLE 1. CIVILIAN CONTRACTOR LEVEL OF INVOLVEMENT¹²

LOGCAP: THE PROGRAM AND ITS HISTORY

As previously mentioned, LOGCAP was formally created in 1985 by Army Regulation 700-137. It is an Army initiative to preplan during peacetime the use of civilian contractors to perform selected services in wartime and other contingencies to augment U.S. forces in support of DoD missions.¹³ In light of the post-Vietnam military drawdown of the late 1970s with significant force reductions, the advent of the all volunteer force, and over 75 percent of the Army's CS and

CSS capabilities moved to the reserve component, LOGCAP was seen as a necessity by the Army to adequately support future military operations. It is an umbrella external support contract which attempts to remove the burden of contracting from the local commander by placing it on the Army Service Component Command (ASCC) of each regional unified command.¹⁴ A LOGCAP contract is let by an external support organization, initially the USACE and later AMC, for a contractor to conduct centralized planning based on ASCC input and requirements but funded by the external organization. This planning allows the contractor to quickly mobilize to meet the ASCC's requirements, filling shortfalls in the theater support concept not available from other sources. If the plan is executed, funding responsibility moves from the external support organization to the ASCC. The distinct advantage LOGCAP brings to the Joint Task Force (JTF) commander is the ability to tap into the contractor's full range of total global assets instantly,¹⁵ simply by writing a clear statement of work (SOW) and allocating the funds to purchase the support needed.¹⁶ The menu of support services available is relatively extensive, as can be seen from the current LOGCAP contractor support menu shown in Table 2. It should be noted, however, that LOGCAP is the option of last resort. Army CS/CSS assets, both active and reserve, other services, and allied sources of support are supposed to be exhausted before a requirement can go to the LOGCAP contractor.¹⁷

SUPPLY OPERATIONS	FIELD SERVICES	OTHER OPNS & SVCS
Class I: Rations & Water	Laundry & Bath	Maintenance (Gnd, Air, Msl)
Class II: Organizational Clothing, Equipment, & Admin Supplies	Morale, Welfare, & Recreation	Transportation (Includes APOD/SPOD Operation)
Class III: POL – Bulk & Package	Clothing Repair	Medical Services
Class IV: Construction Materials	Food Service	Engineering & Construction
Class V: Ammunition	Mortuary Affairs	Signal
Class VI: Personal Demand Items	Sanitation	Retrograde
Class VII: Major End Items	Billeting	Pwr Generation & Distribution
Class VIII: Medical Supplies	Facilities Management	STAMIS Operations
Class IX: Repair Parts	Clothing Exchange	Physical Security
	Information Management	Force Provider Module Opns
	Personnel Support	Legal Services
		Weapon Systems Training

TABLE 2: LOGCAP CAPABILITIES SUPPORT MENU¹⁸

The Army's initial attempt to implement LOGCAP involved making each ASCC the proponent for its theater with USACE letting separate contracts for each. Only one project was submitted under this concept, an ARCENT requirement for two inland petroleum distribution systems in Saudi Arabia, a pipeline operated in peace and in war, which was let by USACE in 1988.¹⁹ The contract was discontinued in 1990, however, because of, "...the high cost for limited application and dependence on US forces to preposition and transport material."²⁰

After the Gulf War LOGCAP was reorganized as a result of lessons learned in the war. This change made the U.S. Army Deputy Chief of Staff for Logistics (DA DCSLOG) the proponent for the program and USACE the contracting authority and single program manager, creating centralized contract management.²¹ These changes in place, the first Army umbrella support contract let at the DA level was awarded in August 1992 by USACE to Brown & Root Services Corporation (BRSC).²² This LOGCAP contract was designed to provide peacetime planning for CS/CSS services to augment other capabilities in support of regional combatant commander's requirements. The centralized funding for the contract only paid BRSC's planning costs. If the contract was executed for contingency support the appropriate ASCC would assume funding.²³ The contract had six major components: development of a worldwide management plan that could be used globally to support the planning force; development of 13 country specific plans using specific planning data from regional combatant commanders; updating regional and worldwide plans annually; development of a worldwide database of potential support sources; annually participating in at least two exercises; and executing the plan upon alert notification.²⁴ The contract based planning on providing base camp equipment, facilities, and supporting services on a force of up to 20,000 soldiers in five base camps. This included billeting, showers, meals, laundry, utilities, potable water, sanitation, maintenance, and other support. BRSC was required to deploy an advanced party within 72 hours of notification and the first base camp was required to be operational by Day -16. All five base camps were required to be turn key facilities and be completed no later than Day -31. The five base camps were broken down into four forward support base camps and one rear support camp. The rear support camp provided services at one seaport of debarkation (SPOD) and one airport of debarkation (APOD).²⁵ At the rear SPOD/APOD facilities BRSC was required to support port reception, staging, and onward movement operations. Finally, BRSC was required to plan for expanded theater support for 50,000 soldiers.²⁶

LOGCAP was first tested in December 1992 with the execution of Operation RESTORE HOPE in Somalia. In all, BRSC provided over \$106,000,000 in support services to over 22,000 U.S. and U.N. troops.²⁷ In the course of the operation, BRSC performed base camp

construction and maintenance; food service; laundry and field showers; latrines, sewage, and solid waste removal; receipt, storage, and issue of bulk fuel; production, storage, and distribution of water; local and line haul transportation of personnel and cargo; power production and distribution; and linguist support.²⁸ Though several problem areas were identified, the LOGCAP operation was an overall success. This is especially true considering that BRSC and its subcontractors operated in an environment with a near total lack of infrastructure and a significant security risk.²⁹

LOGCAP was next tested in Operation SUPPORT HOPE in Rwanda in August 1994. The contractor produced, stored, and distributed approximately 500,000 gallons of potable water a day to refugee camps in and around Goma, Zaire.³⁰ Total contractor charges to the U.S. Army for the operation were \$63,000,000.³¹ This support requirement was quickly followed in September 1994 with execution of LOGCAP to help support Operation UPHOLD DEMOCRACY in Haiti. Providing much of the same type of support it had in Somalia, BRSC's bill to the U.S. Army for Haiti support was \$133,000,000.³² One month later, in October 1994, LOGCAP was again executed in support of Operation VIGILANT WARRIOR in Saudi Arabia for small scale base camp support (total cost \$5,100,000) and then repeated in September 1995 in the same way in Italy for Operation DENY FLIGHT (total cost \$6,300,000).³³ LOGCAP support for these operations was again considered adequate though several problems were noted. Though this succession of LOGCAP contract executions validated the LOGCAP concept and showed what was possible under the umbrella contract, the scale of the contracted support in these operations was relatively small. The entire LOGCAP cost for all five operations combined was only \$213,000,000, a very small fraction of their total cost.

To this historical backdrop came the involvement of U.S. forces in the Balkans and the use of the LOGCAP contract to support them. BRSC's scope of work in the Balkans significantly exceeded all previous LOGCAP support combined. The initial contract called for the contractor to build and operate 12 base camps spread across Bosnia, Croatia, and Hungary; to conduct SPOD and APOD operations; to provide the majority of non-tactical supply and maintenance for U.S. forces; to provide services to include water, laundry, showers, sanitation, and food service; and to provide the transportation of personnel, cargo, and the mail.³⁴ The number of base camps soon expanded from 12 to 33.³⁵ To accomplish this huge task BRSC developed an immense infrastructure in the Balkans that at its height employed approximately 6,766 personnel in theater, excluding Kosovo, as well as a vast number of subcontractor personnel.³⁶ In Kosovo the contractor employed 5,500 workers, 5,000 of whom were local nationals, making Brown & Root the largest employer in the country.³⁷ The military force structure replacement by

BRSC in the Balkans was significant. The G4 for Task Force (TF) Eagle summed it up nicely, writing,

Several studies were conducted to quantify and qualify the capabilities civilian contractors brought to Task Force Eagle, in terms of the number of soldiers displaced through the use of contractor logistics support. One such study concluded that to replace BRSC alone, the Army would have needed a reinforced corps support group and two engineer battalions capable of vertical and horizontal construction.³⁸

LOGCAP support operations in the Balkans paid BRSC over \$2.5 billion between 1995 and September 2003.³⁹ Not only is this dollar amount substantial when compared to previous LOGCAP operations, but as a GAO study found in September 2000, over ten percent of DoD money spent on operations in the Balkans was paid to contractors for battlefield support, a significant increase from all previous operations.⁴⁰ All this occurred in an environment of change surrounding the LOGCAP program. First, on 1 October 1996 the Army transferred management of LOGCAP from USACE to AMC. Then in 1997, BRSC's 1992 LOGCAP contract expired and DynCorp won the contract renewal. Instead of DynCorp taking on the LOGCAP mission in the Balkans, however, a separate Balkans sustainment contract was let to BRSC for the period 1997 to 2004. This Balkans support contract was LOGCAP-like but not LOGCAP⁴¹ and called "The Mother of All Service Contracts" by the Contract Services Association of America.⁴² A final organizational change occurred in 1998 when BRSC combined with M.W. Kellogg Oil-Pipe Fabricator to form Kellogg, Brown & Root, Inc. (KBR), both companies subsidiaries of Halliburton, Inc.⁴³

As the new LOGCAP contractor, DynCorp executed LOGCAP operations in East Timor, Ecuador, Columbia, Panama, Uzbekistan, and the Philippines between 1997 and January 2002. Unfortunately for DynCorp, the estimated profit alone from BRSC's Balkan contract over this same time period exceeded all DoD funds paid to DynCorp for all these operations combined.⁴⁴ The nature and terms of DynCorp's LOGCAP contract differed in two ways from BRSC's previous LOGCAP contract. First, a set fee was paid for the planning portion of the contract instead of cost plus fee.⁴⁵ Cost plus fee means that quarterly during an operation the government evaluates the contractor's performance and can award a fee in addition to the cost of services provided, in this case up to eight percent. Secondly, this contract differed in that it was a one year contract with four one-year renewals instead of a five year contract.⁴⁶ Though these DynCorp's supported LOGCAP operations were small, they were nevertheless very important to the LOGCAP program as many improvements to the program were developed and

executed during these operations, particularly Operation STABILISE in East Timor and Operation ENDURING FREEDOM-PHILIPPINES.

On 14 December 2001, the Army's new LOGCAP contract, LOGCAP III, was awarded to KBR. LOGCAP III is a ten-year task-order contract with a one-year base period and nine one-year options. The contract requires KBR to deploy within 72 hours of notification to provide CS/CSS for 25,000 troops within 15 days under any conditions. The list of CS/CSS services provided is included in Table 2. Almost immediately after the award of the contract, KBR began supporting U.S. forces in Afghanistan for Operation ENDURING FREEDOM. This was quickly followed by additional contract executions in Kuwait, Jordan, Qatar, and Iraq to support Operation IRAQI FREEDOM (OIF) and the follow-on Iraqi reconstruction efforts which are still on going. LOGCAP III is a cost plus fee contract and like the Balkan support contract, has proved very profitable for KBR. Since the beginning of OIF through August 2003, KBR performed a reported \$596,800,000 in LOGCAP related work.⁴⁷ Key elements of this work included: \$142,000,000 in base camp operations in Kuwait, \$170,000,000 in CS/CSS for Iraqi reconstruction efforts, \$28,000,000 for building enemy prisoner of war camps, and \$39,000,000 for building classified base camps in Jordan.⁴⁸

Additionally, both the total percentage of support provided to soldiers by battlefield contractors and the percentage of total DoD costs for the operation being paid to battlefield contractors were at all time highs. By August 2003 civilian contractors were handling as much as 30 percent of essential military support services in Iraq.⁴⁹ At the same time, around one third of the \$3.9 billion monthly cost for keeping U.S. troops in Iraq was going to civilian contractors.⁵⁰ Table 3 shows current KBR LOGCAP III operations and breaks them down by country and the number of personnel employed directly by KBR and by its subcontractors.

COUNTRY	KBR EMPLOYEES	SUBCONTRACT EMPLOYEES
Kuwait	2372	3064
Iraq	2541	8934
Afghanistan	690	402
Uzbekistan	145	393
Georgia	17	20
Djibouti	248	0
TOTAL	6013	12,813

TABLE 3: LOGCAP III CURRENT SUPPORT MATRIX⁵¹

BENEFITS OF CONTRACTORS ON THE BATTLEFIELD

Contractor support can augment existing capabilities, provide expanded sources of supply and services, bridge the gaps in the deployed force structure, leverage assets, and reduce dependence on US-based logistics. This force multiplier effect enhances the CINC's fighting capability.⁵²

—Joint Pub 4.0, Doctrine for Logistics Support of Joint Operations
6 April 2000

Though civilian contractors on the battlefield have proliferated over the last 60 years, it has not been without complaint and problems. Issues with the legal status of contractors, their force protection requirements, accountability, reliability and discipline, location on the battlefield, readiness, responsiveness, and the lack of doctrine to institutionalize their support have been heard over and over from Mogadishu to Zamboanga, Camp Bondsteel to Baghdad. In light of all these reported problems, why has the use of contractors not only continued but dramatically increased? The answer is that there are a lot of benefits to using contractors and those benefits outweigh the liabilities.

One of the biggest benefits to using contractors is cost. In most cases, using civilian contractors on the battlefield to provide support services is cheaper than using soldiers. As one oft quoted author on the subject points out, "contractors can provide expertise on a case-by-case basis, without the cost of training, housing, and paying individuals for the previous 10 years."⁵³ Retired General Bill Tuttle, former president of the Logistics Management Institute of McLean, Virginia, has in fact stated that the use of contractors on the battlefield to provide support instead of soldiers can save the Army as much as 20 percent.⁵⁴

The use of contractors also stretches the Army's strained force structure and reduces the operations tempo (OPTEMPO) of its soldiers. Vice President Dick Cheney summed up the Army's challenge in both of these areas in September 2000 when he concluded that, "Over the last decade, commitments worldwide have gone up by 300 percent, while our military forces have been cut 40 percent."⁵⁵ In fact, in 1999, soldiers across the Army were deployed an average of 130 days per year.⁵⁶

Another plus for contracting is that it can provide continuity. In a contingency environment where military personnel often rotate out of theater after only four to six months, long term contract employees provide continuity for support operations of deployed forces that would not be possible in a completely military supported operation. Likewise in the LOGCAP planning process with the military, KBR and DynCorp senior planners have provided the same kind of continuity over the entire LOGCAP contract while military logistic planners rotated in and out of the program due to normal duty rotations and service professional development requirements.

Contracting support can also provide a public affairs advantage over military support for operations in several ways. Deploying LOGCAP or other contractors instead of military personnel can alleviate the political and social pressures that have come to be a fact of life in the U.S. whenever military forces are deployed.⁵⁷ While there has been little to no public reaction to the deaths of five DynCorp employees killed in Latin America⁵⁸ or the two American support contractors from Tapestry Solutions attacked (and one killed) in Kuwait in January 2003 prior to OIF,⁵⁹ U.S. forces in Somalia had to be withdrawn from Somalia after public outcry following the deaths of U.S. soldiers in Mogidishu during Operation RESTORE HOPE.

Additionally, military force structure often has a force cap, usually for political reasons. Force caps impose a ceiling on the number of soldiers that can be deployed into a defined area. Contractors expand this limit.⁶⁰ These force caps usually do not apply to contractors. Vietnam, the Balkans, and OEF-PHILIPPINES are all examples of the Army maximizing the number of combat troops deployed on an operation with a politically imposed force cap and then maximizing civilian contractor CS/CSS assets to fill the resulting shortfall in support services.

Finally, the sometimes significant socio-economic benefits that contractors bring to local communities and local economies as employers can produce both political and economic leverage for the United States and the local American force commander. The previously mentioned example of BRSC being the single largest employer in Kosovo displays how dynamic this factor can be.

ISSUES WITH LOGCAP AND CONTRACTORS ON THE BATTLEFIELD

Of the four services, only the Army has developed substantial guidance for dealing with contractors.⁶¹

—GAO Report, *Contractors Provide Vital Services to Deployed Forces but Are Not Adequately Addressed in DOD Plans*
24 June 2003

Though the benefits of LOGCAP and contractor support on the battlefield virtually ensure their continued presence in future U.S. military contingency operations, several problems and friction points are still associated with their use. As previously mentioned, these issues include the legal status of contractors on the battlefield; contractor force protection and safety; accountability, reliability and discipline of contractors in the area of operations (AO); conditions and locations on the battlefield where contractors can be utilized; contractor readiness, responsiveness, and flexibility; and the development of doctrine for the use of contractors on the battlefield. All of these rub points at times have

at best decreased the efficiency of LOGCAP support contracting and at worst have prevented the effective support of U.S. forces deployed overseas in harm's way. The U.S. Army has long recognized these problems. As early as March 1996, Major Camille Nichols noted in *Military Review* that the Army understood these shortfalls and that in response, "Efforts to minimize or eliminate problems with LOGCAP and contractors on the battlefield have been undertaken."⁶² Despite these efforts however, numerous articles and papers on LOGCAP and contracted logistics on the battlefield since 1996 have continued to point out problem areas. This continuing concern begs the question of what is the current status of efforts to mitigate and eliminate these problem areas and what is the road ahead in each area?

LEGAL STATUS OF CONTRACTORS

U.S. law specifically prohibits contractors from performing three battlefield functions: armed combat, command and control of U.S. military and civilian personnel, and ironically but quite logically, contracting.⁶³ That said, the Law of Land Warfare as determined by the Hague Convention of 1907 and Geneva Convention of 1949 was long interpreted by the U.S. Army to have three personnel legal status categories:⁶⁴

- Combatants – Member of armed forces that participate in direct hostilities with enemy forces
- Noncombatants – The general civilian population and personnel who accompany the armed forces but are not members of the armed forces provided they received authorization from the armed forces they accompany. They must also refrain from direct support of hostile actions.
- Illegal (Unlawful) Combatants – Personnel who are not members of the armed forces who participate in hostilities.

Combatants and noncombatants under these definitions are entitled to protection as prisoners of war, illegal combatants are not.⁶⁵ Using these definitions the Army considered contractors on the battlefield to be noncombatants. In the 1990s, however, as it engaged in the series of contingency operations previously discussed, the Army's interpretation of the legal status of civilians changed. It redefined noncombatants as the general civilian population not involved in hostilities and created a new fourth personnel category termed "civilians authorized to accompany the force."⁶⁶ This interpretation was officially spelled out in DoD doctrine in April 2000 with the publishing of Joint Pub 4.0 which stated that the law of war status of contractors was that they were, "...considered civilians accompanying the force and neither combatants nor

noncombatants.⁶⁷ Under this new interpretation of the Geneva Convention, “civilians authorized to accompany the force to the field” are different from the general civilian population. They of course are not authorized to engage in any activity inconsistent with their legal status, such as possessing offensive weapons, performing purely military functions, participating in attacks on the enemy, or occupying defensive positions on a perimeter.⁶⁸ Reinforcing this interpretation of the legal status of contractors, COL Lyle Cayce, Staff Judge Advocate for the 3rd Infantry Division (Mech) in OIF in a recent interview concurred that as it moved through Iraq, his Division considered civilian contractors as “quasi-combatants.”⁶⁹

CONTRACTOR FORCE PROTECTION

Force protection is defined in FM 3-100.21 as, “actions taken to prevent or mitigate hostile actions against DoD personnel, resources, facilities, and critical information.”⁷⁰ The responsibility of providing force protection to contractors, as noted in a 2003 GAO study, appears to be in conflict between DoD and Army policy.⁷¹ Joint Pub 4.0 clearly states that force protection of DoD contractor employees is a contractor responsibility, unless valid contract terms place it with another party.⁷² Army FM 3-100.21, published almost three years after Joint Pub 4.0, states, “Protecting contractors and their employees on the battlefield is the Commander’s responsibility.”⁷³ This apparent disconnect is not as pronounced, however, when taken into consideration that the LOGCAP contract and most other Army external support contracts specifically state that force protection will be the responsibility of the commander as a term of the contract. This practice brings the force protection responsibility of the vast majority of Army contracting into accordance with Joint Pub 4.0. Under the Army policy, the commander on the ground must also determine what level of force protection is appropriate for contractors working within his AO.⁷⁴ This can range from constant force protection as in Somalia to limited force protection as in Bosnia.⁷⁵ It can take the form of armed escorts, armored vehicles, reinforced structures, and protective equipment to safeguard against weapons of mass effect.⁷⁶

One additional aspect of force protection deals with the question of civilian contractors being armed. The legal status of civilian contractors on the battlefield as persons authorized to accompany the force precludes them from carrying offensive weapons. To do so would make them illegal combatants. DoD interprets this to mean that contractors generally are not armed.⁷⁷ The Army and USAF interpret this to mean a contractor can be armed if they carry a defensive weapon strictly for self defense. Both services interpret a defensive weapon as an M-9 9mm pistol with military standard ammunition⁷⁸ and both services require that three conditions are met before contractors are allowed to be armed: the first operational commander in the chain of

command approves, the contract employees company permits weapons issue, and the contract employee agrees to carry the weapon.⁷⁹

CONTRACTOR ACCOUNTABILITY, RELIABILITY, AND DISCIPLINE

Accountability, reliability, and discipline are interrelated concepts that have all been significant problem areas in the Army's use of contractors on the battlefield. All three areas come down to the question of will contractors be there when the military needs them with the level of support required.

Accountability is the administrative accounting for contractor personnel in the theater of operations. It is important because it tells the Army if the contractor is adequately manned to perform its contracted functions. The bottom line is that there is presently no mechanism to force the contractor and contract employees to employ a personnel accountability system or to interact with the military personnel accountability system to attain accurate contractor personnel visibility. The more permissive a theater of operations is, the worse this problem appears to be. In the Balkans, contractor personnel accountability was terrible. Contract employees flew to Hungary, drove into the Balkans in rental cars, and rented apartments off the base camp installations.⁸⁰ Even in Iraq today under the LOGCAP III contract and its many subcontractors, accountability of contract employees is weak. Many contractors still enter the area commercially from Kuwait, Turkey, and Syria.

Reliability deals with the likelihood of the contractor completing the terms of the contract regardless of conditions. Though this has not been historically a significant problem in the LOGCAP program, it is unfortunately also true that there is still nothing the Army can do to prevent contractors from terminating their contracts when confronted with significant threat. The issue revolves around the legal point that contractor personnel can not be compelled to remain at their post once hostilities are underway.⁸¹ They can legally unilaterally terminate their contracts rather than accept potential danger if required to operate in a combat zone.⁸² The U.S. Navy's Operational Law Department summed it up well, noting that forcing contractors to perform is,

...highly improbable...there can not be involuntary servitude in the United States. Even a contractor who agrees to perform a certain function could walk away and breach the contract. The government could sue for breach and ask a judge for specific performance, but even if the contractor failed to perform, it would not be criminal, and they could just walk away.⁸³

Discipline is the authority to maintain good order and the rule of law amongst contract employees deployed overseas on the battlefield. Except in the case of declared

war, and the last declared war for the U.S. was World War II, contractor employees are not subject to the Uniform Code of Military Justice (UCMJ). Despite this, contract employee discipline can still be enforced through possible Status of Forces Agreements (SOFA), the laws of the host nation, the Military Extraterritorial Jurisdiction Act of 2000, withdrawal of privileges, and the terms of the contract they deployed to execute.

A SOFA is an agreement that defines the legal relationship between the host nation and the U.S. military personnel stationed within its borders. If contractors are included in the SOFA, then acts of misconduct the SOFA allows the U.S. to prosecute can be referred to a U.S. Federal District Court. If there is not a SOFA or contractors are not included in the existing SOFA, as was the case in Vietnam and Bosnia, then contract employees violating the law of the host country can still be prosecuted for that crime by the host country under its law.

Additionally, with or without a SOFA, if the alleged crime is a violation of U.S. Federal law, then contractors can be prosecuted in a U.S. court under the Military Extraterritorial Jurisdiction Act. This is especially important because of the substantial differences in legal systems around the world. Passed by Congress in 2000, the Act provides that if a civilian accompanying the U.S. Armed Forces outside the United States, including contractor employees, commits a criminal act under U.S. law, that person may be tried and punished for that offense in a U.S. Federal District Court.⁸⁴

Also, a military commander has the ability to withdraw privileges from a contractor employee due to that individual's unsatisfactory behavior. These privileges include entry to installations, medical facilities, dining facilities, and base exchanges.⁸⁵

Finally and most importantly, the contractor and contract employee can be disciplined by the terms of the contract. Joint Pub 4.0 states clearly that contractor employees are disciplined by the contractor through the terms of the employee to employer relationship and not by the commander.⁸⁶ This is a very powerful tool when working with contractors if used correctly. The contracting officer has the authority to direct the contractor (not the contract employees) through the contract. Terms and conditions can be constructed to include provisions requiring contractor personnel to abide by all guidance and obey all instructions and general orders applicable to U.S. Armed Forces and Department of Defense civilians to include those of the theater commander. The contractor can also be required to take reasonable steps to ensure his personnel comply with these provisions and ensure the good conduct of his employees.⁸⁷ Furthermore, the contractor can be required to promptly resolve, to the

satisfaction of the contracting officer, all contractor employee performance and conduct problems identified by the contracting officer.

CONTRACTOR PLACEMENT ON THE BATTLEFIELD

Contractor placement on the battlefield relates to where contractors can be used on the battlefield due to the level of threat. It would seem at first glance that in relation to the LOGCAP program this problem has been eliminated as the LOGCAP III contract requires KBR to operate in any threat condition and the contractor has agreed. Unfortunately, as previously discussed under contractor reliability, contractors confronted with a significant threat are not legally bound to complete the terms of their contract. Because of this risk, contractors really can not be depended upon beyond medium threat conditions to provide sometimes critical CS/CSS.

CONTRACTOR READINESS

Contractor readiness under the LOGCAP umbrella support contract relates to the contractors' ability to rapidly deploy to provide critical CS/CSS in the early phases of a military operation. An important aspect of contractor readiness is not only the ability to deploy quickly, but the ability to deploy quickly with the capability to provide the required levels of effective contracted support services. The contract logistical support service industry points out that LOGCAP contractors entered Somalia, Rwanda, Haiti, and Bosnia only days after the first United States troops deployed⁸⁸ but this is of little value if they did not have the ability to provide required support. In Bosnia, despite the early deployment of BRSC personnel, early base camp type construction had to be done by USAF Red Horse and Navy SEABEE engineers. In Operation ENDURING FREEDOM-PHILIPPINES in 2002, LOGCAP contractors from DynCorp deployed to Zamboanga with the initial troop deployments in early January, but took over a month to provide food service operations, over 90 days to establish base camp facilities at Edwin Andrews Air Base, and had still not established an APOD support operation or ground maintenance capability after over four months.

Planning is the key to contractor readiness. This includes both preplanning what support services contractors will provide to a given contingency operation as well as the specific requirements for deployment of contractor personnel and equipment into the AOR. This interaction in logistical planning is the essence of the LOGCAP program which pays the LOGCAP contractor, currently KBR, to develop a Worldwide Management Staffing Plan (WMSP) and create a worldwide vendor list from which it can obtain required supplies and services.⁸⁹ The WMSP is a baseline generic plan for supporting 25,000 troops for up to 180

days anywhere in the world. From the WMSP, AMC and contractor planners create a generic plan for both developed and undeveloped countries. These are then refined to create regionally based plans and then further refined to support specific Regional Combatant Command and ASCC plans.⁹⁰ Once contractor support for a plan has been determined, then additional analysis and planning is required to ensure contractor deployment timelines support requirements in the theater.⁹¹ This is required to confirm contractor deployment issues are resolved. It includes planning for contractor legal, medical, immunization, and dental deployment support, as well as the issuance of chemical defense and other special equipment and the transportation of contractor equipment.⁹²

CONTRACTOR RESPONSIVENESS AND FLEXIBILITY

Contractor responsiveness and flexibility pertains to the ability of contractors once established in theater to meet the needs of the military force as requirements change over time. A valid complaint against contractor responsiveness and flexibility is that they are limited because contractors are legally and contractually obligated to perform only the functions listed in their statement of work (SOW).⁹³ As operational requirements change on the battlefield and changes to existing services or new services outside the SOW are required, a slow and cumbersome process is required to validate and authorize the change before it can be executed.

To fully understand this issue, a quick review of the mechanics of the contracting process is necessary. FM 100-10-2 centralizes all contracting authority in the theater under the theater's Head of Contracting Authority (HCA) through the Principle Assistant Responsible for Contracting (PARC) who he appoints.⁹⁴ The HCA is a general officer, usually the senior commander in the theater, who provides overall guidance throughout the contingency and serves as the approving authority for contracting as stipulated in regulatory guidance.⁹⁵ The PARC is the commander's senior Army acquisition advisor responsible for planning and managing all Army contracting functions within the theater.⁹⁶ All Army contracting officers in theater except those belonging to USACE and AMC operate under the procurement authority of the PARC.⁹⁷ USACE and AMC contracting officers retain procurement authority from those commands but operate under the functional control of the theater PARC while in theater, subject to the PARC's contracting support plan.⁹⁸ This is important for LOGCAP because it is an AMC contract. The PARC exercises functional control of contracting over all contracting personnel from any Army agency or supporting command through the acquisition review

board (ARB).⁹⁹ In a joint environment, the PARC (thus Army) may be the designated executive agent for theater contracting with responsibility to coordinate all DoD contracting activities.¹⁰⁰ In this case the ARB would become a Joint ARB (JARB). The process to resource new requirements in theater begins when the supported user identifies the requirement to the supporting S4/G4/J4.¹⁰¹ The S4/G4/J4 determines if the requirement can be satisfied by military means¹⁰² and if not, it is passed to an ARB/JARB if it falls within the dollar threshold established by the chain of command or to higher level approval authorities if it does not.¹⁰³ The dollar threshold is the dollar cost parameters within which the ARB/JARB can review new requirements. The maximum requirement cost by law an ARB/JARB can approve is \$200K in a contingency environment, but this amount can be lowered by the chain of command.¹⁰⁴ In Operations JOINT ENDEAVOR (OJE) and Operation JOINT GUARD (OJG) in Bosnia the JARB could validate and approve requirements costing between \$1K and \$25K. New requirements between \$25K and \$50K were approved by the Commander of Task Force Eagle and requirements over \$50K went to ODCSLOG Europe in Germany for determination of need and means of execution.¹⁰⁵ In contrast to this, in Operation ENDURING FREEDOM-PHILIPPINES (OEF-P), the JARB was allowed to make determinations on requirements up to \$100K. Requirements above \$100K were forwarded to DCSLOG USARPAC in Hawaii for determination. Once the decision maker validates the requirement, they then have the option of fulfilling it through Host Nation Support, LOGCAP, or other commercial source.¹⁰⁶

Based on this understanding of the contracting process, it can be said that the requirements validation and approval process in theater almost always is shorter for decisions made at the location of the contingency than those passed back to higher headquarters for approval because they surpassed the dollar threshold. In the examples provided earlier of OJE/OJG and OEF-P, the contract approval process in Bosnia and the Philippines was almost always faster than items passed back to Germany and Hawaii for decision.

DOCTRINE DEVELOPMENT

Doctrine development entails the formal incorporation of contractor support on the battlefield into U.S. Army and joint doctrine. As late as 1997, the GAO report on LOGCAP found the Army needed to develop doctrine for implementing LOGCAP that identified the way to use the contractor effectively.¹⁰⁷ Such doctrine would institutionalize contracting as a routine

function of military operations.¹⁰⁸ After a concerted effort over the last six years, the U.S. Army and the Joint Staff have largely accomplished this task and established a relatively robust doctrine on the use of contractors on the battlefield.

Beginning in mid-1998, the Army Training and Doctrine Command (TRADOC), the Army Combined Arms Support Center (CASCOM), and the DA DCSLOG joined to form an Integrated Concept Team (ICT) to develop doctrine for utilizing contractors on the battlefield.¹⁰⁹ The net result of the ICT was the development and publishing of AR 715-9, *Contractors Accompanying the Force*, on 29 October 1999; FM 100-10-2, *Contracting Support on the Battlefield*, on 4 August 1999, and FM 100-21, *Contractors on the Battlefield*, on 22 March 1999.¹¹⁰ AR 715-9 provided the Army its first Army-wide policy governing contractors.¹¹¹ FM 100-10-2 focused on the acquisition of contractor support.¹¹² It is designed to be the handbook for the contracting officer on the mechanics of the contractor support acquisition process. FM 100-21 provided the operator and logistician a playbook on the operational aspects of using contractors to support Army operations.¹¹³ This doctrine was further reinforced with the inclusion of a section on contracted support in FM 3-0, *Operations*, published 14 June 2001 and Joint Pub 4.0, *Doctrine for Logistics Support of Joint Operations*, published on 6 June 2000, dedicating an entire chapter to contractors in the theater of operations. FM 100-21 was revised and republished on 3 January 2003 as FM 3-100.21, *Contractors on the Battlefield*, to include additional lessons learned and tactics, techniques and procedures for operationally employing civilian contractors on the battlefield. Finally, AMC assisted in doctrine development for contractors on the battlefield in August 2003 when it published AMC Pamphlet 700-30, *Logistics Civil Augmentation Program (LOGCAP)*. This pamphlet provided an understanding of the LOGCAP program to assist the field in obtaining CS/CSS through the LOGCAP contract.

THE ROAD AHEAD

Some soldiers don't wear uniforms. They're called contractors...¹¹⁴

— GEN Paul Kern, Commander AMC
8 September 2003

Support contractors will play an even greater role in future U.S. military operations. As the GAO concluded from its investigation of the LOGCAP program, “LOGCAP is a viable, cost effective, successful alternative to augment CS/CSS forces during contingency operations.”¹¹⁵ Leveraging this contractor support capability is an essential part of our military's force projection and sustainment capability and will only increase in the future. Taking the future use of LOGCAP and contractors on the battlefield as a given, what then is the road ahead for the

problem areas addressed in this project? The answers to this question are best answered by addressing each problem area individually.

The first such problem area is the legal status of contractors on the battlefield. As previously stated, the Army considers contractors as neither combatants nor noncombatants but rather persons authorized to accompany the force. This position, however, is not firm in international law and the way ahead here resides in efforts by the U.S. to firmly have this legal opinion ratified and validated by the international community.

The second problem area discussed is contractor force protection. In this area, DoD places responsibility on the contractor for the force protection of himself and his employees unless the terms of the contract specifically states differently while the Army places the responsibility on the military commander on the ground. The Army then attempts to reconcile this conflict by specifying in the terms of its external support contracts, to include the LOGCAP III contract, that the military commander is responsible. The services and DoD are also in disagreement on the arming of contractors. DoD believes generally that contractors should not be armed while the Army and Air Force believe it is okay for contractors to be armed with defensive weapons for self defense provided three preconditions are first met. Based on this, the road ahead on contractor force protection should deal with three issues. First, the services and DoD must deconflict their doctrine on who is responsible for contractor force protection on the battlefield with DoD adopting the current service interpretation. Secondly, DoD and the services must likewise deconflict and develop doctrine to support a mutual position on the arming of contractors, again in favor of the services position. Finally, the Army needs to formally plan and incorporate into doctrine, plans, and orders the requirement to provide military force structure for the force protection of contractors. This applies to both the deliberate and crisis action planning processes and is dependent upon level of threat within the operation.

Relative to contractor reliability and placement on the battlefield, the road ahead is driven by the commander's need to mitigate risk to U.S. military forces caused by the contractor's ability to unilaterally terminate a contract when perceived to be in danger on the battlefield. To accomplish this risk mitigation, the Army must develop a threat template and the doctrine to ensure a complete threat analysis is conducted during the logistical planning process for contingency operations. Perceived threat levels beyond the acceptable risk from this template would result in a default recommendation to the commander to use military support forces in lieu of contractors for critical CS/CSS functions.

The road ahead for the problem areas of contractor accountability and discipline needs to utilize the terms of the contract itself to obtain the desired behavior from contractors and

contract employees. By writing very specific requirements for contractor personnel reporting and contractor personnel behavior into the contract, much can be done to correct current shortfalls in these two areas. This is especially true if the violation of contract terms is linked directly to contractor performance in the award determination process of cost plus contracts. Contract terms can further specify that contract personnel violating personnel discipline contract terms must be immediately replaced by the contractor on a non-reimbursable basis.

Contractor responsiveness in the future can primarily be improved, short of contract reform, by maximizing the dollar threshold amount for validating and approving changes to the SOW 'in country' during contingency operations. As was pointed out previously in this project, requirements validated and approved on location during contingencies are almost always executed faster and are more responsive than those passed back to ASCC or joint headquarters. Thus by increasing the dollar threshold amounts for approval of requirements 'in country', the number of requirements that can be validated and approved faster is increased.

Finally, since 1997 the Army has created an outstanding doctrine for LOGCAP and the use of contractors on the battlefield but this doctrine is still incomplete and in need of further refinement. As can be seen in almost every problem area aforementioned in the road ahead for improving the LOGCAP program and contracting on the battlefield, the development or revision of doctrine is in one way or another almost always required.

CONCLUSION

Logistics comprises the means and arrangements which work out the plans of strategy and tactics. Strategy decides where to act; logistics brings the troops to this point.¹¹⁶

— GEN Henri Jomini, *Precis de l' Art de la Guerre*
1838

In conclusion, the LOGCAP program is now providing the most responsive and effective contracted CS/CSS support in the history of the U.S. Army. The program is both viable and necessary for the Army to continue at its current OPTEMPO. Having said this, however, continued work to mitigate and eliminate problem areas will reduce program resource requirements, raise efficiency to new heights, and should be pursued aggressively.

WORD COUNT= 8,175

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