Assessing Human Rights Risk within U.S. and UN Private Security Contracts

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Abstract

Recent trends in privatization have affected the way governments wage war and direct security services. The past two decades have witnessed the rise of Private Security Companies (PSCs) and an increasing reliance on private security contractors by governments. The pace at which the private security industry has grown outstrips normative debates about the ethical presence of PSCs and use of private security by governments, instead demanding more accountable and responsible contracts and government regulation to protect against misconduct and human rights violations.

This thesis explores the recent explosion of private security in U.S. and UN operations. The U.S. and UN both report significant increases in their use of private security contractors in the last ten years. Additionally, examinations of various private security contracts reveal inadequate accountability measures both in the U.S. and at the UN, particularly through an over-reliance on reporting mechanisms and contractor self-supervision. Similarly, policy documents and guidelines relating to private security contracting show weak oversight and poor management of private security contracts by both the U.S. and UN, from monitoring and evaluation mechanisms to insufficient government capacity to lacking disciplinary procedures. However, the two governance institutions diverge in their approaches to contracting private security services and risk assessment policies. U.S. agencies have internalized private security contracting as a core competency, essential to various operations, yet this study found the UN to be more cautious in its approach to contracting private security. The UN mandates comprehensive approval, risk analysis, and mitigation procedures and promotes a culture of responsibility, which are all absent from U.S. contracting policies and practices.
Introduction

The control over force traditionally belonged exclusively to the state, or in the past century, to international democratic institutions. The recent trend towards the privatization of security, however, threatens fundamental notions of state power and the public right to wield democratic influence over political violence. The international community increasingly relies on a growing number of private security actors, whose scope of operations continues to expand. This controversial shift internalizing outsourced security as a governance tool sounded alarms within the international community, in relation to both human rights concerns and respect for democratic dominion. This shift launched an industry-wide investigation by civil society organizations, academic scholars, and governments into the extent of PSC usage, the existence and effectiveness of various regulatory measures and the moral dilemmas PSCs present.

Private security companies (PSCs) increasingly perform the work formerly assigned to national military personnel, from logistics to operational support. With the end of the Cold War, the emergence of PSCs flooded the international scene. They sought to fill rapidly expanding supply and demand gaps as powerful countries demobilized and weaker countries were destabilized. The Iraq and Afghanistan wars in particular witnessed and promulgated the use of private security. By mid-2009, the number of contractors in Iraq and Afghanistan surpassed that of uniformed personnel.¹

As PSCs began infiltrating international conflicts and security operations, the international community raised serious concerns about the potential to regulate or hold them accountable. While many stakeholders endorsed PSCs as a way to bring efficiency and effectiveness to an industry often plagued by political hindrances, bureaucratic inefficiencies and intractable security problems, others noted that the privatization of security inherently distances

the use of force and engagement in conflict from any democratic controls. Not only does a
certain level of secrecy shroud their operations, given the nature of military and security
engagement, but also governments often contract PSCs for jobs in conflict zones far away from
domestic or international oversight and enforcement mechanisms. In fact, the industry’s growth
outstrips the development of accountability mechanisms targeting PSCs.

While many debates within academia or civil society weigh the costs and benefits of this
outsourcing of private security to determine whether governments should rely on PSCs, growing
governmental dependence on private security contractors now demands asking and answering
how to responsibly source PSCs, ensure accountability frameworks in order to protect human
rights, and encourage effective PSC operations. The pace at which the private security sector has
grown diminishes the importance of these normative debates about the ethical presence of PSCs.
Instead, reliance on them by countries like the U.S. and institutions such as the UN necessitates
improving risk mitigation and accountability in order to minimize dangerous abuses of power
and human rights violations. This paper will examine the recent trend in U.S. and UN private
security contracting behavior to demonstrate the industry’s pervasiveness and provide evidence
for moving beyond the normative debate. I will then pivot to address regulations of PSCs,
looking at how they promote responsible contractor behavior, i.e., behavior that conforms to
contractual obligations and fosters basic respect for human rights. The paper will provide an in-
depth analysis of current U.S. and UN reliance on PSCs as well as of their policies and private
security contracts, including model procurement contracts released by the U.S. and UN.

**What is a PSC?**

Private security companies (PSCs) provide a wide range of services to different markets,
which contributes to difficulties in quantifying the industry and measuring their impact on
international security. Private security services range from external tasks (protecting borders) to
internal tasks (citizen policing), and from actual combat missions (which are rare) to off-site technological support or consulting. The International Code of Conduct for Private Security Providers (ICOC) and Montreux Document, another international standard governing PSCs, define these companies as “private business entities that provide military and/or security services, irrespective of how they describe themselves.” Military and security service include armed guarding and protection of persons or buildings, maintenance and operation of weapons systems, prisoner detention, and advice to or training of local forces and security personnel. However, these definitions are overly vague yet simultaneously excessively strict, given their difficulty to enforce and consistently interpret yet inability to account for fast-changing development in the sector. While national governments act as PSCs’ primary clients, reportedly providing about three-fourths of PSCs’ annual revenue, these companies also provide security to humanitarian actors, international non-governmental organizations (INGOs), private firms, and the UN.

Peter Singer defined the boundaries of the industry in relation to the “Tip of the Spear.” Other notable scholars, including Deborah Avant, have adopted and expanded upon this metaphor. While Singer differentiates between firms, Avant studies contracts rather than firms because of these companies’ dynamic nature, as they adjust their services to fill specific contracts and often provide several different types of support simultaneously under different contracts.

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3 Avant, "Regulating PMSC: Governance Dynamics and Regulation in the Global Private Security Market."
4 Scholars debate over the actual proportion of national governments’ role in sourcing private security, with some disputing private clients and businesses hire the majority of private security services.
5 Lou Pingeeot, "Dangerous Partnerships: Private Military & Security Companies and the UN " (Global Policy Forum and Rosa Luxembourg Foundation, June 2012).
This model classifies security operations into three broad categories: type-one military provision, type-two military consulting, and type-three military support. Singer disaggregated these services by the proximity of the relationship to the “tip of the spear” in battlespace. Type one services are those closest to the tip of the spear on the front lines of battle. They most closely resemble traditional conceptions of the military (defined by Avant as ‘core military competencies’).

1) Type One: Military provision services focus on the tactical environment, providing armed operational support and engaging in combat or direct command and control of field units. Clients with often low military capabilities facing immediate high-threat situations rely on PSCs for these services as ‘force multipliers.’

2) Type Two: Military support and consulting contracts provide analysis and training services. This strategic, operational, and organizational analysis can be integral to the function or restructuring of armed forces. While these security services reshape strategic and tactical environments, they have no “trigger finger” like type one services – that is, they should not engage in combat. Clients usually contract type two security services in the midst of restructuring forces or to bring about a transformative gain in capabilities.

3) Type Three: These contracts supplement existing client security services. Firms under type three contracts do not participate in the planning or execution of direct hostilities. Rather, they fill functional needs falling within the military sphere still, such as logistical or technical support. Clients relying on outsourced type three security are commonly engaged in immediate but long-duration interventions and require surge capacity with their standing forces.

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| Operational support & core military combat functions | Supplemental management | Logistical and technical support |
| Armed personnel assistance on the battlefield | Security consulting | Transportation\(^6\) |
| Armed and unarmed site security | Crisis management consulting | Translation services |
| Tactical military services | Training of existing military and peacekeeping forces | Administrative services: telecom, food, laundry |
| Selection of weapons systems and acquisition; development of weapons systems | Special operations training | Setting up and taking down of temporary bases |
| Operation of weapons and information systems on the battlefield | Intelligence gathering | Equipment procurement, e.g. fire protection, security systems, communications and technological equipment |
| Aerial surveillance | Risk assessment | |}

\(^6\) While some would categorize certain transportation services as type two or even type one security services given the proximate nature to direct conflict, Singer assigns transportation generally to type three services. I will leave transportation services in type three contracts here, as these contracts very rarely permit transportation providers to engage.
However, it is important to note that even seemingly benign activities falling into the type three category can have serious human rights implications when performed in the midst of a conflict. For example, two contracted translators were involved in the abuse scandal and torture that occurred at Abu Ghraib Prison in Iraq in 2004.

PSCs operate first and foremost as companies, akin to other multinational profit-driven corporations. However, certain characteristics distinguish them from more traditional, businesses. Other private military ventures used in the past – specifically mercenaries, or unlawful ‘guns for hire’ as they came to be known – differ from PSCs, which compete in the open global market as legal entities contractually bound to their client. However, PSCs differ from the standard transnational corporation in their employee composition and the dynamic nature of their services. Most PSCs recruit former military personnel or intelligence officers, often trained by national governments for specific military or government security roles. However, the same government frameworks and limitations do not apply to private companies. Additionally, PSCs do not maintain standing forces but instead draw from databases and advertisements for qualified personnel and specialized subcontractors on a contract-by-contract basis. This globalization of resource allocation could enable greater efficiency with less operational slack, creating advantages for PSCs over more burdensome government security alternatives. However, firms can therefore easily move from one service type to another in each contract, which makes them harder to track and hold accountable.

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7 Deborah D Avant, *The Market for Force - the Consequences of Privatizing Security* (New York: Cambridge University Press, 2005);
8 Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN ".
10 Ibid., 198
The Emergence of the Private Security Industry – Literature Review

Historical Trend towards the Privatization of Security

Various forms of private security scatter historical regimes and conflicts. However, the recent model of private security dominating certain global military engagements grew out of the end of the Cold War, which ushered in new threats, sources of power, and insecurities. This changing nature of security contributed to the market for private security, as market pressures, technology, and globalization and social change created new security demands.¹²

As with most private markets, the private security industry grew in response to local and international supply and demand.¹³ In the 1990s, countries rapidly downsized their militaries, feeding both supply and demand. Demilitarization flooded the international market with uniquely skilled labor and arms capital while developing countries upgrading their militaries and weak states seeking new sources of security increased demand.¹⁴ Transformations in the nature of warfare fueled the private supply of security, as it became easier to obtain basic security services and military operations became increasingly reliant on specialized technology systems run by civilian specialists. Furthermore, the maintenance of stability grew to include combating new illicit by-products of globalization, including organized crime and terrorism, as well as enforcing emerging global norms about human rights.¹⁵ These new threats required protection from sources independent from a complicit state and fell outside of pre-defined national security interests.¹⁶

¹⁵ Avant, The Market for Force - the Consequences of Privatizing Security , 32
States saw a decline in their abilities to respond to these threats. Smaller-scale conflicts multiplied and unleashed disorder, as violence increased in the former eastern bloc and developing nations experiencing the withdrawal of superpower patronage.\(^{17}\) Violence in the former eastern bloc increased as power shifted to defunct governance structures and countries emerged into the global market. Weak governments caused violence and war in their own countries and disruption and violation to global norms.\(^{18}\) In the wake of the Cold War, the great powers were no longer willing to intervene abroad to restore stability. PSCs entered as a solution and served as a stopgap tool for meeting greater demands with smaller government forces.

Lastly, a normative shift towards privatization in all industries marked the post-Cold War era, and bled into the market for security. The momentum of growing privatization as globalization took hold promoted beliefs in competitive advantages relating to efficiency and efficacy.\(^{19}\) Privatization rapidly changed international security, given the power security firms exert over remolding and rearticulating security perceptions and practices.\(^{20}\)

**Benefits of Privatizing Security**

Most proponents of PSCs argue that the private market offers certain efficiency and efficacy advantages that governments or other collective entities cannot provide. Several argue private security offers higher quality security services than the public alternative, including faster deployment and greater flexibility and agility in responding to new demands or changing situations.\(^{21}\) Furthermore, some research suggests that governance institutions often hire PSCs at

\(^{17}\) Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security.", 194


\(^{19}\) Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security.", 197

\(^{20}\) Ostensen, "In the Business of Peace: The Political Influence of Private Military and Security Companies on UN Peacekeeping ", 35

lower costs than national public security forces. This includes savings in staff costs, time and administrative flexibility.  

The privatization of security supplements public security forces and enhances military organizations’ capabilities. Privatization permits such organizations to narrow their focus to core military services and leave peripheral concerns to the private sector, thus boosting the efficiency and capabilities of units engaged in core military services. Many PSCs operate in conflict-ridden countries with weak governance, where deteriorating national security services cannot adequately protect a) external operations, such as those run by the UN, within the country, b) humanitarian relief providers and non-governmental agencies, or c) citizens of the country. PSCs can complement existing public forces and address inadequately equipped operations. Private support of humanitarian actors working in conflict-zones that threaten the safety and continuation of their operations generates the most consensus on the potential benefits of private security. PSCs offer critical protection to humanitarian agencies when their alternatives include pulling out of a conflict zone or increasing demand on the organizations’ resources for survival.


Avant, The Market for Force - the Consequences of Privatizing Security ; Chakrabarti, "Corporate Actors."; Fenema and Beeres, "(Re-)Drawing the Boundaries: Sourcing Operational and Supportive Services in Military Organizations."

Fenema and Beeres"(Re-)Drawing the Boundaries: Sourcing Operational and Supportive Services in Military Organizations."

Stoddard et al.


For example, In Somalia, the situation on the ground deteriorated to the point where several humanitarian organizations withdrew their operations for security reasons. The majority of relief groups fled the country, and the UN itself was totally absent during 1991. Those who stayed risked their lives. (Herta)
Lastly, outsourcing security presents attractive political advantages for national and international governance organizations. Given PSCs are private (i.e., disconnected from a state or international organization), national and international governments employ them to evade political consequences from external conflict intervention. Private contractors most often deploy in conflict zones where states lack the political will to enter and intervene more directly.\textsuperscript{28} Additionally, outsourcing security offers a defense against any legal liability and an opportunity to circumvent restrictive legislative limits.\textsuperscript{29,30} While states often view this as a benefit of PSCs, most human rights advocates cite this as a factor leading to the industry’s culture of impunity and evasion of accountability.

**Criticism of PSCs**

**Lack of Accountability & Regulation in the Private Security Industry**

International failure to hold PSCs accountable constitutes the biggest concern regarding the increasing reliance on these companies.\textsuperscript{31} The primary reason for this lack of accountability and oversight results from the various overlapping, conflicting, and weak standards governing


\textsuperscript{31} Pingeot, "Dangeous Partnerships: Private Military & Security Companies and the UN ". 
PSC behavior.\textsuperscript{32} PSCs operate within a unique legal void, especially without any effective international legal instruments of control or regulation.\textsuperscript{33} Uncertainties in the legal status of PSCs and the resulting accountability structure distinguish the private security industry from other under-regulated transnational private markets.\textsuperscript{34} International law, domestic law of the host government (PSC place of performance), and domestic law of the contracting government can offer conflicting expectations and regulations, thus mapping an intricate and ineffective accountability structure with no central or superseding authority. International law does not always apply to PSCs, while domestic legal frameworks are not strong enough to regulate PSC behavior, either because of physical distance between the contracting and host countries or due to the absence of an applicable legal apparatus.

This global nature of business, where corporate headquarters exist half a world away from the actual private security operations, makes it difficult to prosecute offenders. While national governments claim legal responsibility for their uniformed soldiers who commit a crime abroad, a private security employee is subject to the local laws of his or her current state – often corrupt, or without the legal basis to prosecute human rights violations or the ability to try offenders.\textsuperscript{35} Therefore, PSC employees often operate outside the rule of law. As Human Rights Watch reported following the discovery of other human rights violations by private security contractors in Iraq, “allowing private contractors to operate in a legal vacuum is an invitation to abuse.”\textsuperscript{36} In many cases where contracted employees have committed murder, engaged in sexual abuse, perpetrated fraud, or committed other crimes, they not only have escaped punishment but

\textsuperscript{33} Pingeot,"Dangeous Partnerships: Private Military & Security Companies and the UN ", 7
\textsuperscript{34} "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security."
\textsuperscript{36} Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security.",115
also kept their jobs – or retained the ability to be rehired by other PSCs seeking military personnel on the open market.

The rapid expansion of the private security industry outstripped normal mechanisms of oversight. The explosion of contracting (in both financial terms and staffing numbers) just in the Afghanistan and Iraq wars would be difficult to track even with qualified personnel and adequate legal bases to do so.\(^37\) Current monitoring mechanisms are severely limited, with weak extraterritorial oversight and rare enforcement authority.\(^38\) Although new initiatives, including the Montreux Document and the International Code of Conduct Association, provide hope towards eventual comprehensive monitoring of the industry, no responsible agency or centralized database currently keeps track of PSCs. Furthermore, not only each firm, but each contract employs different combinations of security services across the globe.\(^39\) This diverse and dynamic nature of the industry makes it more difficult (and more necessary) to monitor PSC behavior and contract awards.

PSCs operate beyond even public scrutiny, given the opaque nature of the private security industry.\(^40\) Government transparency rules often exempt PSCs, as these rules consider such information and documents to be proprietary.\(^41\) Others cite the practice of no-bid contracts, sub-contracting relationships, and the secrecy and opacity within governance institutions themselves as contributing factors to the lack of transparency.\(^42\) Furthermore, PSCs often operate in unstable crisis areas where general chaos clouds specific behavior by PSCs.\(^43\) While market incentives


\(^{39}\) Bruneau, *Patriots for Profit: Contractors and the Military in U.S. National Security.*, 112


\(^{41}\) Bruneau, *Patriots for Profit: Contractors and the Military in U.S. National Security.*, 111

\(^{42}\) Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN "; 8

\(^{43}\) Ibid., 16
suggest positive returns for engaging in good behavior, i.e., respecting human rights in conflict, as long-term profits partly depend on public image and the company’s ability to resolve conflict or accomplish outlined objectives in their contracts, this does not work without transparency.\textsuperscript{44}

The intimate relationship between the contracting government and the PSC further contributes to this regulatory void.\textsuperscript{45} PSCs and governments often exchange personnel between them, and most PSC employees have formative training as national military members or intelligence officers. Therefore, many critics worry that PSCs simply act as extensions of their host governments’ foreign and military policies or instruments of their economic interests. It also further confuses the roles and responsibilities assigned to companies rather than the national military, leading to inappropriate practices.\textsuperscript{46}

*Culture of PSCs*

Another common criticism of PSCs relates to the perceived culture of impunity and secrecy, creating an industry riddled with human rights violations and contract breaches.\textsuperscript{47} PSCs operate with a high degree of secrecy, both for operational security purposes and to protect their market share. PSC personnel are accustomed to operating with a certain degree of secrecy, given their training in the military, special operations, or intelligence.\textsuperscript{48} However, unlike military command structures, no loyalty structure exists within the companies.

PSCs do not foster a culture of respect for human rights. Several reports have found inappropriate cultural behavior and insensitivity on the part of PSCs. These firms are accused of

\begin{itemize}
  \item \textsuperscript{44} Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security.", 214
  \item \textsuperscript{45} Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN "; "Legislative Guidance Tool for States to Regulate Private Military and Security Companies "; "Addressing Security and Human Rights Challenges in Complex Environments: Toolkit."
  \item \textsuperscript{46} Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN ", 14
  \item \textsuperscript{47} Ibid., Kay, Global Security in the Twenty-First Century: The Quest for Power and the Search for Peace ; Bruneau, Patriots for Profit: Contractors and the Military in U.S. National Security.; "Addressing Security and Human Rights Challenges in Complex Environments: Toolkit."
  \item \textsuperscript{48} Bruneau, Patriots for Profit: Contractors and the Military in U.S. National Security., 112
\end{itemize}
cultural superiority and roughneck behavior. Given the nature of these services, where external (often Western) forces enter a local conflict and an unfamiliar environment, cultural competency skills or the respect for those skills often fall short. Matters of morality often pale in comparison to the company’s bottom line to fulfill their contract and conduct productive operations that make a profit. PSCs analyze conflicts solely in terms of their own business opportunities, thus ignoring complex political and social dynamics that could also lead to less costly and less violent solutions. In addition, many contracts and PSC operations do not directly consider human rights or conduct risk assessments, leaving gross opportunity for such violations to occur.  

**Long-term Implications of Outsourced Security**

This increasing reliance on PSCs risks perpetuating conflict in certain situations rather than ending it, in turn generating more demand for security. The presence of armed guards or peacekeepers may in fact undermine the security of the very citizens they aim to protect, either through their own behavior or through the potential of rebel groups to use force against these PSCs, thus contributing to an overall surge in violence (as occurred in Somalia with the armed peacekeeping intervention). This dependence on PSCs increases the threat of economic power because of PSCs ability to transform limited economic power into significant military might. As wealth and military capability grow hand in hand and the costs of war decline, the peace-oriented nature of government and non-state policy may falter.

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49 Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN ".
51 Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN ", 13
52 "Legislative Guidance Tool for States to Regulate Private Military and Security Companies ".
53 Pingeot, "Dangerous Partnerships: Private Military & Security Companies and the UN "; Chakrabarti, "Corporate Actors."
54 Dwan, "The Evolution of International Peacekeeping."
Organizations sourcing externally realize the risk of losing their capability to perform certain activities themselves or of depending on private security without adequate controls, which takes away critical leverage that the contracting entity exercises over contractors. This loss of control enables PSCs to abandon operations at a crucial point if the situation becomes too financially or physically risky, leading to the breakdown of the entire military machine or operation. The contracted company might even gain dominance over the government or contracting entity, where early termination of a contract, dissatisfaction with terms of payment, or disagreements over specific orders could lead to unpleasant repercussions for the government. This will further promote private security providers to protect their own interests even at the expense of contractual priorities or human rights.

Limited U.S. and UN Industry Regulation

U.S. Regulation of PSCs

In the early 2000s, the U.S. failed to regulate the private security industry in any meaningful way. Skeletal and cursory structures characterized U.S. governance of PSCs. Many of the rules governing security contracts during this time fall either within general procurement requirements; PSCs can also be held legally accountable through tort and contract claims brought in district courts. Given the U.S.’s history of contracting with the private sector for various goods and services, the Federal Acquisitions Regulations (FAR) and DOD supplement, DFARS, outline numerous procurement policies. These set necessary contract provisions and define baseline corporate behavior in order for a company to be considered in good standing with the

56 Fenema and Beeres, "(Re-)Drawing the Boundaries: Sourcing Operational and Supportive Services in Military Organizations.", 93; Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security."
58 I will not go into detail on jurisdictional statutes that can apply to private security companies, as it is not within the scope of this paper. A detailed list of relevant statutes can be found online through the University of Denver’s Private Security Monitor http://psm.du.edu/national_regulation/united_states/laws_regulations/index.html#federal_laws_and_regulations
government. Other binding legislation, such as the Federal Activities Inventory Reform (FAIR) Act of 1998 and the OMB Circular A-76 (original, 1983; revised, 1999), govern federal outsourcing policy and indicate types of services the government can contract out. The OMB Circular A-76 specifies that contractors may only perform activities deemed not to be ‘inherently governmental.’ In 2000, Congress passed the Military Extraterritorial Jurisdiction Act, which amends the Uniform Code of Military Justice (1951) to make DOD contractors and their employees subject to prosecution under Military Extraterritorial Jurisdiction.

Further regulations applicable to private security contractors originate within other domains. Certain human rights violations are protected by issue-specific legislation that can apply to contractors operating overseas; the Victims of Trafficking and Violence Protection Act of 2000 targets any instances of trafficking while the Federal Torture Statute of 1994 addresses torture. Other rules directed at the defense space and U.S. military personnel have been extended to private security contractors, including the Arms Export Control Act of 1976 and the Defense Base Act of 1941 (providing overseas contractors with Workers Compensation Insurance), although author Deborah Avant characterizes these regulations in the 1990s as “cursory” in relation to private security contractors and targeted towards directing the private security industry to promote U.S. interests. The Arms Export Control Act contains the International Traffic in Arms Regulations (ITAR) and gives the President the authority to control the imports and exports of defense goods and services but does not pertain directly to PSCs. Additionally,
each agency passes their own set of regulations and contracting procedures governing private security contractors.\textsuperscript{65} This complex and limited regulatory structure renders the U.S. unable to effectively govern private security contractors and hold them accountable.

The explosive growth of the role of private security during the Iraq War and U.S. contractors’ public violations of human rights prompted the U.S. to begin regulating the industry and its procurement of private security services. The U.S. dramatically increased their use of private security contractors in Iraq and Afghanistan during the 2000s, augmenting the numbers of PSC personnel engaged in the conflicts as well as expanding the scope of services assigned to them, including jobs such as personal security details and interrogation services.\textsuperscript{66} Governance of this industry began to emerge in stand-alone initiatives as a result of increasing controversy and attention to PSCs in Iraq and Afghanistan. In 2004, the world witnessed the killing and mutilation of Blackwater (PSC) personnel in Fallujah and the participation of personnel from government services companies, CACI and Tital, in the Abu Ghraib prison scandal, while in 2007, Blackwater’s shootout in Nisor Square, Baghdad drew questions and concerns about accountability in the space.\textsuperscript{67} In response to this increased attention, the U.S noted the failures in its regulatory processes and proposed various interventions, with the industry also undertaking efforts at self-regulation.

Congress drove accountability through certain pieces of legislation. Policy makers demanded more information about the legal status of deployed contractors and passed legislation to limit the types of services PSCs perform. Legislators have used the Annual National Defense Authorization Act (NDAA) as a vehicle to do so, tacking on amendments and regulations that

\textsuperscript{65} For a better understanding of agency-specific directives and regulations, see the University of Denver’s Private Security Monitor website: \url{http://psm.du.edu/national_regulation/united_states/index.html}

\textsuperscript{66} The U.S. Commission for Wartime Contracting has documented the prevalence of private contractors deployed overseas during the Iraq and Afghanistan Wars, and the increasing reliance on PSCs into the 2000s.

\textsuperscript{67} Avant, "Regulating PMSC: Governance Dynamics and Regulation in the Global Private Security Market." 16.
directly address government contracting of private security. In 2007, the NDAA amended the Uniform Code of Military Justice, the foundation of military law and responsible for establishing jurisdictions, to apply to persons serving with or accompanying armed forces during “times of war.” The NDAA for Fiscal Year (FY) 2008 established the Commission on Wartime Contracting to study the use of private security contracting in Iraq and Afghanistan.

Additionally, many policy directives regarding procurement originate within each agency. Thus, agencies such as the Department of Defense (DOD) and Department of State house many rules governing private security contracting, which may or may not apply to other agencies. The DOD implemented several critical rules directed at PSCs, including Contractor Personnel Authorized to Accompany the U.S. Armed Forces (DOD Instruction 3020.41; 2011), Contractor personnel supporting a force deployed outside the United States (DFARS 225.3; 2015), Operational Contract Support (32 CFR 158; 2011), and Private Security Contractors Operating in Contingency Operations (32 CFR 159; 2011). These regulations establish policy and procedures relating to accountability, training, and conduct of contractor personnel, rules for the use of force, integration of contractors into overseas operations, contract oversight and management, and more. The State Department similarly responds to various agency regulations and directives, including policies related to the use of deadly force and rules of engagements for contractors. Additionally, several U.S. Agency Memorandums of Agreement (MOA) between agencies such as the DOD extend various DOD policies to State contracts.

Transition in UN Attitude Towards and Regulation of PSCs

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68 See Appendix 5 for an overview of relevant NDAA provisions since 2003 that pertain to private security contracting.
71 Sie Center for International Security and Diplomacy, "Private Security Monitor".
72 Ibid.
The UN has historically opposed the use of private security until the early 2000s, when it began regulating the industry. The UN had led international efforts to prohibit the use of mercenaries prior to folding PSCs into this effort during the 1990s. The UN established the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination in 2005, succeeding the mandate of the Special Rapporteur on the use of mercenaries, to “strengthen [the] international legal framework for the prevention and sanction” of mercenaries. The group’s mandate also included monitoring and publicizing the adverse effect of private companies offering military and security services. The UN ultimately began contracting private security because of operational difficulties and documented inefficiency; UN peacekeeping missions specifically were often plagued by discrepancies between the peace operation mandates and allocated resources, preventing them from being effective or fulfilling all parts of their mission.

Similar to the U.S., any private security contracted by the UN in the early 2000s was only subject to general procurement guidelines. In 2009, the UN established the United Nations Security Management System (UNSMS) Project Group to help develop and report on a new Security Level System (SLS), implemented in 2011. While each agency procures its own goods and services according to agency rules, the SLS applies system-wide, to every agency, as a complement to their own policies and procedures. The UNSMS published a Security Policy

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Manual. Chapter IV addresses security management issues, with sections on Armed PSCs, Security Risk Management, Unarmed PSCs, and Use of Force Policy. Additionally, in 2009, the Working Group released the Draft International Convention on the Regulation, Oversight, and Monitoring of Private Military and Security Companies, although the UN has yet to implement such a Convention.79

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**Research Design**

**Research Questions**

This paper will investigate the use of PSCs by the U.S. and the UN government since 2008 and compare the extent of their reliance on private security. Secondly, it will examine UN and U.S. policies and contract regulations as they relate to human rights, evaluating the extent to which they do or do not protect against human rights violations by security contractors.

**Method**

I first examine the security contracting practices of the U.S. and the UN using data on private security contract awards. Both institutions procure goods and services related to security and keep public online records of most of these contract awards. For Part I, I conducted quantitative analysis using Stata to identify and analyze the patterns and practices of procurement contracts, focusing on changing award amounts and purposes. I created two distinct databases – one for U.S. awards and another for UN private security awards. The U.S. database contains data from more than 76,000 contracts, while the UN database consists of award data from over 1,200 United Nations Office for Project Services (UNOPS) open contracts.

I compiled contract award data for the U.S. from public federal procurement databases. I used data from two different databases in my analysis – the Federal Procurement Data System (FPDS) and USAspending, both run by the federal government. FPDS, part of the U.S. General Services Administration, manages government-wide procurement data and collects contracts valued at $10,000 or more. The government created the USAspending site after the Federal Funding Accountability and Transparency Act mandated that any awards greater than $25,000 be

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80 The U.S. government is required to publish procurement data under federal legislation and has disclosed certain major contracts with private security companies under the Freedom of Information Act.

81 According to the Annual Report, the UN defines procurement as the acquisition through purchase or lease of real property, goods or other products (including intellectual property), works or services.

publicly displayed and searchable in 2006. This site pulls contract award data daily from FPDS, as well as other government systems such as the Federal Assistance Broker Submission system (FABS). I used both FPDS and USAspending data because FPDS contains contract data covering a longer period of time, while USAspending contains a greater number of contract awards and more award variables, including recipient country and primary place of performance.

In examining the UN’s procurement of private security, I have gathered data from the Annual Statistical Report on United Nations Procurement (ASR), produced by UNOPS on behalf of the UN, as well as data available publicly online through the UNOPS site and the United Nations Procurement Division (UNPD) site. The ASR gathers and presents procurement data from 40 UN agencies, examining various patterns and providing transparency on UN behavior. From this report, I have isolated data from ‘Peace and Security,’ which is then separated into two categories: ‘Security and Safety Equipment’ (goods) and ‘Public Order and Security Services’ (services). I will focus only on those private security contracts for the UNOPS and the UNPD, as these agencies consistently contract a large share of total UN procurement and the greatest percentage of security services by any individual UN agency. Since 2012, UNOPS and UNPD together have engaged over half of the UN’s private security services every year. In 2017, UNPD and UNOPS contracted the most Peace and Security Services, with UNPD procuring 26.70% and UNOPS 24.19% of Public Order and Security Services as well as UNPD procuring 19.69% and UNOPS 18.74% of Security and Safety Equipment (see Appendix 1 and 2 for complete spending by UNOPS and UNPD on private security services, relative to other UN agencies).

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84 These can be accessed at www.data.unops.org and www.un.org/Depts/ptd/welcome-united-nations-procurement-division-unpd
85 The United Nations Standard Products and Services Code ® (UNSPSC) standard classifies procured goods and services across the entire UN; Access the code here https://www.unspsc.org/
86 In 2017, UNPD procured $2,746.7 million total goods and services with UNOPS following with $1,068.9 million – third and sixth respectively out of the 40 UN agencies. Total UN procurement in 2017 added to $18,622.7 million.
87 The only agency to procure more Peace and Security Services that year was the World Food Program (WFP) with 20.06% of Security and Safety Equipment.
88 See Appendix 1 for UNPD and UNOPS share of total security procurement for each year beginning in 2008.
Each UN agency bears the responsibility of providing accurate and complete procurement data to UNOPS for the ASR, and many have different systems and methodologies for recording and reporting this information.\textsuperscript{89} Thus, while the ASR provides the most comprehensive overview of the UN’s procurement, UNOPS and UNPD’s individual procurement databases provide more detailed information about each contract. UNOPS publishes all contract awards, irrespective of value, but only contains information on ongoing projects.\textsuperscript{90} Therefore, I supplemented data from the statistical reports with information gathered from the agency’s databases. Given that not all of the individual agency databases archive contract information and some publish only active contract awards, I have used the annual statistical report to track the increase of UN security contracting over time. This also became necessary because of significant variation in the completeness of online agency records. Based on the total amount of contracts stored online versus reported in the ASR, a significant number of contract awards are missing from or inaccessible in the UNPD database.\textsuperscript{91}

Parts III, IV, and V examine example contracts and procurement policies related to security and draw from the above sources as well as other publicly accessible resources. Using regulatory initiatives, such as the Montreux Document and the International Code of Conduct for Private Security Providers, as well as civil society reports on responsible contracting practices, I identified several key criteria relevant to human rights risks and protections that should be embedded within private security contracts. These criteria are listed in Table 7 in the Appendix. Based on several pre-determined human rights criteria, I used thematic coding to analyze these security contracts and policies.

\textsuperscript{90} Read more about UNOPS’s definition of open data here [https://opendefinition.org/od/2.1/en/]
\textsuperscript{91} I compiled a database of UNPD contract awards from the agency’s online record, which consisted of significantly fewer contracts than should have been recorded and also revealed tens of millions of dollars missing in online contract award data, given the totals reported by the ASR for UNPD Peace and Security spending.
In addition to the UN’s Procurement Manual, the UN Security Management System – a Project Group established by the UN Department of Safety and Security that designed a new Security Level System implemented across the UN – publishes their Security Policy Manual (last reviewed in 2017) and Security Management Operations Manual, which includes Guidelines on the Use of Armed Security Services from Private Security Companies (2012) and a Model Contract (2012). The UN’s Procurement Manual does not explicitly pertain to private security contracts and was therefore not examined in the same manner. I also collected applicable U.S. documents governing federal procurement and security contracting. The examined private security contracts were disclosed through Freedom of Information Act requests from think tanks, NGOs, and the media. Among the U.S. government documents examined were the Commission on Wartime Contracting’s Final Report (2011) and the Gansler Commission’s Report (2007) on private security contracting, and the DOD’s Handbook for Armed Private Security Contractors in Contingency Operations (2010). The State Department’s Foreign Affairs Manual, Chapter 12, details diplomatic security policy and governs the agency’s private security contracting. However, given that it fails to explicitly mention PSCs and outlines broad procurement policies and contractor conduct, this research did not analyze it to the same extent as the other U.S. guidelines that do target private security contracting.

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93 Sie Center for International Security and Diplomacy, "Private Security Monitor."
Results

Part I

Findings from U.S. and UN Contract Award Data

U.S. and UN contract award data reveals significant increases in private security spending by both bodies. Additionally, this data shows a critical lack of transparency in private security reporting by U.S. federal agencies and UN departments. These findings are based on datasets created using online data collections – USAspending.gov and UNOPS and UNPD departmental databases – and the UNDP’s Annual Statistical Reports on United Nations Procurement.

Reported Growth in U.S. Procurement of Private Security Services

The U.S. has dramatically increased spending on security contracting in the past ten years. The U.S. increased procurement on security services almost every year between FYs 2008 and 2018, outpacing even the UN’s rate of growth.\textsuperscript{95} While 2009, 2014, and 2015 each show decreases in security procurement, the total amount awarded decreased by less than 15% in those years. Between FYs 2009 and 2018, USAspending reports an increase of over 876% in security procurement.\textsuperscript{96,97} As exhibited in the graph, much of this growth falls within the past three years, with the most significant spikes in FYs 2017 and 2018. Private security spending doubled in FY 18 alone (see Figure 5 in the Appendix for the percent increase in private security spending by year in the U.S.). It is interesting to note that the U.S. increase in contracted security between

\textsuperscript{95} For the purposes of this paper, “U.S. security services” pertains to all procurement awards categorized under 516612, 561621, 928110, and 928120 according to the North American Industry Classification System (NAICS) code.

\textsuperscript{96} Adjusted for inflation

\textsuperscript{97} It is important to note this is the reported increase in procurement; other factors could influence this rise in spending, including better transparency and more complete reporting. Despite this, I have chosen to use data from USAspending.gov rather than fpds (which stored procurement data for years prior to 2008) because it is more complete; from 2008 on, USAspending.gov reports higher procurement volume by total award amount each year and a higher count of contracts (with the exception of 2010, where USAspending reports $600m less in contracted security – it is unclear where this discrepancy comes from, given USAspending pulls their data in part from FPDS).
FYs 2009 and 2017 (418% increase) outpaces the UN’s rate of growth (292%) during that same time period.\textsuperscript{98} This has implications for Parts III and IV; if U.S. growth outpaces that of the UN, effective U.S. regulations becomes even more critical in regulating the industry as a whole.

The U.S. invests most heavily in Security Guards and Patrol Services, growing this category more than others related to security in recent years. As shown in the following graph, spending on Security Guards and Patrol Services significantly outweighs spending in any other security category. In FY 2017, the U.S. spent $10.41 billion on security-related procurement: $1.33 billion on Security Systems Services except Locksmiths, $8.78 billion on Security Guards and Patrol Services, $258 million on National Security and $41.9 million on International Affairs.\textsuperscript{99} Although the U.S. provides limited descriptions of these categorical definitions, the Security Guards and Patrol Services categorization likely consists primarily of type one security services, which have more severe broader human rights implications, as discussed in Part IV.

\textsuperscript{98} Adjusted for inflation
\textsuperscript{99} These totals were calculated using data published on USAspending.gov.
The State Department and Department of Defense (DOD) specifically have increased their spending on private security significantly during this time period. The DOD and State are the biggest employers of private security in the U.S. The DOD contracts a variety of services from PSCs while State primarily uses contractors to supplement its responsibilities to protect State Department facilities and personnel abroad (State hires around 90% of all Diplomatic Security personnel through private contracts).\textsuperscript{100} The DOD began dramatically increasing the number and scope of its private security contracts during the Iraq and Afghanistan War, while State became reliant on PSCs more recently. Between FY 2008 and FY 2018, the DOD grew spending on private security by almost 650%, while the State Department private security budget grew by over 2,000%.\textsuperscript{101}

\textsuperscript{100} Sie Center for International Security and Diplomacy, "Private Security Monitor".

\textsuperscript{101} Both of these numbers are adjusted for inflation.
The graph below shows a significant increase in both DOD and State private security contracts. Spending on private security contracts grew by over 100% in FY 18 for both the DOD and State. While private security contracting is often associated with the Iraq and Afghanistan conflicts, this research shows an explosion *since* the end of the Iraq and Afghanistan war. Private security contracting is not concentrated in the Iraq and Afghanistan conflicts alone, but instead continues to overtake U.S. operations. This suggests that the use of private security is becoming a core competency within U.S. agencies, as will be discussed in Part IV. Additionally, this data suggests that the DOD is not the primary agency responsible for the increase of U.S. private security contracting. Therefore, DOD agency directives and regulations targeting private security contractors need to be adapted by or extended to other federal agencies, in order to effectively regulate U.S. procurement of private security services.

102 The data shows similar levels of spending by agency when looking at both funding agency and awarding agency, as the differences between the two are statistically insignificant.

103 DOD and State budget numbers are based on actual spending by each agency during the Fiscal Year rather than original budget proposals.
It is important to note that rather than define these categories by the specific service provided in one contract, contracts are categorized by services provided by the “establishment,” i.e., the firm. Given that PSCs often provide a wide array of services that can differ significantly between contracts, this is not the most accurate way to organize security contracts and may lead to inaccurate categorization of contracted services. The same PSC may provide type one services in one contract and type three in another, as these firms can fill contracts from databases and advertising postings in a way that makes it easy for them to switch from one type to another between contracts. Several of these companies do not maintain standing forces but instead hire specialized subcontractors on a contract-by-contract basis. This not only makes it difficult to assess procurement patterns, but also decreases regulation of these services and minimizes “operational slack.”

Reported Growth in UN Procurement of Private Security Services

Like the U.S., the UN has increased spending on private security significantly between 2009 and 2017. In 2017, the UN spent $367.7 million on procurement related to Peace and Security, compared with only $82 million in 2009. This represents a 292% increase in security contracting (see Appendix 3 for the Percent Increase in Peace and Security Spending by year). Before 2016, Peace and Security never reached the Top 10 Categories of Goods and Services (based on the total spending per category); however, Peace and Security ranked sixth in 2016 and seventh in 2017. It is important to note that the UN attributes the $217 million fall in Peace and Security sector procurement between 2016 and 2017 to a change in the way that the UNDP reported Security and Personal Safety Services, rather than a decline in the amount of security

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104 Avant, The Market for Force - the Consequences of Privatizing Security
106 Ibid., 198
107 The UN did not break down procurement spending by category of goods and services until 2009.
108 Findings in this paragraph are based on data provided in the Annual Statistical Reports on UN Procurement from 2008-2017.
109 Adjusted for Inflation
services contracted by the UN.\textsuperscript{110} The UN added the Peace and Security sector as a goods and services category to their procurement reports in 2015, reflecting the burgeoning industry’s increasing relevance to procurement and governance.\textsuperscript{111,112} Peace and Security outpaced growth in other top procurement sectors between 2013 and 2017, increasing by 38.29% in those four years as compared with the ‘Health’ sector (5.45%), ‘Transport’ (18.44%), and ‘Construction and Engineering’ (15.30%). The ‘Consultancy, Administration and Operations’ sector grew by 146% in that time period, however the sector originally did not include consulting services in 2009 and its procurement grew by over 50% in the year it shifted from ‘Management and Administrative Services’ to ‘Consultancy, Administration and Operations,’ and by nearly another 20% the year after that shift. Therefore, this expanded definition of inclusive goods and services likely accounts for a significant amount of the growth and is not comparable with the increase in Peace and Security procurement. Peace and Security spending thus is likely the UN’s fastest growing procurement sector.

\textsuperscript{112} While the Peace and Security sector did not appear until 2015, the UN labeled services according two subcategories – ‘Public Order and Security Services’ and ‘Security and Safety Equipment’ – between 2009 and 2015. This study measures Peace and Security Spending prior to 2015 as the sum of Public Order and Security Services and Security and Safety Equipment. A check of Peace and Security spending in 2015 through 2017 against spending totals of the two subcategories confirms that Peace and Security spending can be represented by the spending on these two categories of goods and services.
The procurement data from the UN Annual Statistical Report (ASR) is more likely an underestimate than an overestimate, suggesting a more dramatic increase and potentially greater impact of security contracting on UN operations than revealed here. In 2017, the Report catalogues $8.72 million in Security and Safety Equipment and $77 million in Public Order and Security Services for UNOPS, while the contract award data published online by UNOPS totals $12.9 million for Security and Safety Equipment and $109 million for Public Order and Security
Services. This one department alone would contribute an extra $32 million in Peace and Security contracts, suggesting that the UN’s 2017 total exceeds $399 million. Furthermore, given that the UNOPS database only lists open contracts, this $121.9 million total for UNOPS leaves out shorter-term contracts that are no longer active, again suggesting that the total amount spent on security procurement costs more than captured in the ASR. If the ASR does in fact represent a conservative estimate (which may be true for other sectors as well), then Peace and Security contracting within the UN might be more widespread and extensive than reported.

**Lack of Transparency and Clarity in Contract Award Records**

The U.S. and UN do not disclose all procurement award data. In the UN, each agency is responsible for its own procurement and publishes contract award data independently. Some agencies only publish purchase orders, others do not publish individual contract data, and still others only provide information on open contracts, i.e., those currently active. Several contract awards fail to disclose various contract components. Both the U.S. and UN commonly withhold vendor names, with over 6% of U.S. contracts undisclosed (marked ‘Domestic Contractor (Undisclosed)’ or ‘Miscellaneous Foreign Contractors’). The UN censored 18% of UNOPS contract vendors (filed with ‘Name Withheld for Security Reasons’ under Vendor Name). Furthermore, the government has redacted certain sections of the publicly disclosed contracts. My analysis is limited to the declassified contract elements made available by the U.S. government. While several of these classified elements remain so for security reasons – for example, government-training programs detailed in the contracts are censored – it is impossible to know what other elements the government or contracting agency withheld.

Spending on private security can be difficult to discern in both the U.S. and UN records because of inconsistent and limited categorical reporting. UN agencies do not all disaggregate their procurement; for example, the UNPD does not differentiate Public Order and Security
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Services from Security and Safety Equipment. Additionally, the categories that do exist are vague, with little public explanation of how the government defines each category and what services would fall into such a category. This broad labeling exists beyond higher-level categories to specific contractual service descriptions. For example, the U.S. labels contracts to be ‘Intelligence Support’ with little clarification of what this support looks like. Interrogation could be considered an ‘Intelligence Support’ function, which varies significantly from and poses much greater risk than other intelligence gathering functions.

This failure to disclose critical information not only has implications for the oversight and accountability of private security contracting from civil society and other spaces, but also for UN and U.S. abilities to manage contracts. This lack of cohesion between agencies in regard to private security contracting impedes the government’s ability to effectively monitor private security contracting as a practice as well as individual contracts. The CWC and Gansler Commission’s found little awareness within government agencies around the extent of private security contracting as well as its changed nature within their agency, leading to ineffective oversight procedures as well as a more complacent attitude regarding contract management than is appropriate. Additionally, in the past, non-profit or watchdog organizations have played an important role in limiting irresponsible government behavior or advocating for tighter policy regulation and accountability mechanisms. Without sufficient information about private security contracting, these organizations will not be able to effectively act as a check on government contracting with PSCs.
PART II

Findings from Disclosed U.S. Private Security Contracts and UN & DOD Model Contracts

An examination of certain publicly available U.S. private security contracts reveals weak human rights protections. These contracts do not meet the outlined human rights criteria and thus would likely fail to effectively defend against human rights violations or contractor misconduct. This analysis examines the few contracts publicly disclosed, which the U.S. released under the Freedom of Information Act after receiving requests from non-profit organizations, think tanks, and media organizations, as well as the UN’s Model Contract (2012) and DOD’s Example Contract (2010). Nine private security contracts awarded by State and two by the DOD between 2001 and 2007 reveal insufficient contract oversight, including an over-reliance on reporting mechanisms instead of direct monitoring or mandated government audits, few performance benchmarks, and inadequate misconduct procedures. Additionally, these contracts fail to incorporate relevant legislative human rights protections or risk assessment and management measures.

Ineffective Accountability Measures in U.S. and UN Contracts

U.S. and UN over-reliance on reporting mechanisms

Most U.S. contracts rely on reporting mechanisms to promote accountability. These reporting clauses often rely on contractors to self-report, with insufficient procedural specification. These contracts required a varying number of reports, as outlined in Appendix 7. Almost every contract mandated cost reporting and monthly progress reports. However, beyond that, contracts often failed to specify greater reporting requirements. Most contracts rely exclusively on monthly progress reports, as few require weekly reports. Furthermore, the

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113 For more information about these contracts, see Appendix 6.
majority of contracts omit specific types of monitoring reports, such as incident or surveillance reports. Less than half of these contracts direct the performance and submission of Lessons Learned, Inspection Reports, or Incident and Accident Reports.\textsuperscript{115} This reliance on reporting as the primary monitoring mechanism makes it even more crucial to mandate not only regular progress reports on performance, but especially these more specific reports. U.S. policies should rectify monitoring inconsistencies by mandating a minimum standard of reporting procedures for each private security contract that include reports like Incident or Accident Reports.

The later contracts and 2010 DOD Example Contract contain more extensive reporting requirements than earlier contracts. The four contracts awarded in 2005-2007 all contain weekly reporting requirements, while none of the contracts signed prior to 2005 mandate any progress reporting beyond the monthly performance reports. While two of the four contracts mandating Lessons Learned Reporting and two of the five contracts requiring Incident or Accident Reporting date to the early 2000s, the later contracts reveal a greater number of specific reporting requirements (Lessons Learned, Incident and Accident, Adverse Information, Inspection, and Surveillance Reports).\textsuperscript{116} Only the 2005 contracts require Adverse Information Reporting (in addition to Incident Reporting). Additionally, the DOD Example Contract (2010) recommends that all contracts include a general assessment of threat conditions and armed personnel incident reports (which most 2000s contracts do not). Although this suggests positive development as agencies increase the number and strength of reporting requirements, the DOD Example Contract still reflects the earlier emphasis on reporting.


UN documents also reveal inadequate accountability procedures, reflecting the later U.S. contracts. The UN Model Contract similarly emphasizes reporting procedures to ensure accountability, and like the later U.S. contracts, requires Incident Reports. However, the UN contract providers greater detail on the substance of these reports, as they must include investigations to determine causality and the Contractor’s proposals for improvement. It also clarifies the contractors’ responsibility to report any incidents where contractor personnel violate the Use of Force Policy, Weapons Manual, or Applicable International, National, or Local Laws. Establishing such specific procedures for incident reporting – and especially bringing attention to the Use of Force Policy and incorporating international law, which are more likely to explicitly include human rights protections – contributes to the efficacy of these reporting requirements.

Ultimately though, the U.S. and UN should both examine the efficacy of their monitoring and evaluation strategies in order to foster greater accountability. The goal should not only be strengthening reporting requirements, but eventually moving beyond reporting. While more extensive reporting does contribute to accountability, reporting alone will not enable the U.S. to identify misconduct and hold contractors responsible for any human rights violations, especially compared with more effective monitoring mechanisms, such as on-site monitoring or external audits.

*U.S. and UN reliance on contractor supervision*

Many contracts expect contractors to supervise performance and personnel conduct. These findings would theoretically then be communicated to the Contracting Officer (or relevant authority) and government agency through the described reporting procedures. However, contractors are unlikely to sufficiently monitor and regulate company performance and conduct in practice, or if they do, to report such surveillance to the government. Almost half of the U.S. contracts expect contractors to adequately supervise on-site activities and employees, especially
those on guard duty.\textsuperscript{117} Contractors are expected to ensure certain standards of conduct and performance,\textsuperscript{118} as well as compliance with arming provisions and relevant laws or directives applicable to private security personnel.\textsuperscript{119} In some cases, these contractors are tasked to ensure compliance with all guidance issued by and/or applicable to the U.S. Armed Force and DOD civilians, DOD directives and policies, federal statutes and judicial interpretations, international agreements (e.g., Status of Force agreements) applicable to U.S. Forces or U.S. Citizens in the area of operations.\textsuperscript{120} It is the responsibility of the contractor – not the government – to manage the contract and maintain quality control. Similarly, the UN Model Contract also assigns this job to the contractor, who is responsible for ensuring personnel abide by all applicable UN directives, regulations, security rules, policies and procedures.

Several contracts give agencies the authority to directly monitor contractor activities and performance, but most provisions simply authorize the government to do so rather than mandate that it does or outline specific supervision procedures. Several U.S. contracts authorize government review, but do not mandate contracting officers or government agencies to carry out such inspections regularly. Similarly, the UN Model Contract specifies that the UN “reserves the right to review all Services performed by the Contractor at all reasonable places and times,” (23.2) and requires contractor cooperation, yet does not mandate this UN review. Few contracts call for mandated review procedures, with only three U.S. contracts specifying Evaluation Performance Periods.\textsuperscript{121} However, these only occur periodically, and the contracts do not indicate their depth or rigor and rate of implementation. Contracts must require government agencies to monitor PSCs to ensure contractors abide by government regulations and human

\textsuperscript{117} Contracts A (2005), B (2007), C (2003), D (2005), and J (2006).
\textsuperscript{118} Contracts E (2004), G (2004), and I (2004).
\textsuperscript{120} Contract C (2003).
\textsuperscript{121} Contracts A (2005), D (2005), and C (2003).
rights standards. In order to hold contractors accountable, U.S. and UN contracting personnel must be able to identify misconduct. Tasking governmental bodies or contracting officers with monitoring mitigates weak oversight by contractors and prevents them from hiding any improper performance.

**U.S. contracts fail to sufficiently employ performance benchmarks**

These contracts contain insufficient performance benchmarks, which establish baseline expectations for contracted services. These benchmarks enable the government to hold PSCs accountable to certain standards or contractual obligations. Most U.S. contracts include minimum standards related to Neglect of Duties, Disorderly Conduct, Intoxication, or Consumption of Alcohol, but omit any standards related to human rights protections and include little related to the responsible use of force. Only three contracts outlined performance benchmarks for contracted services, rating them on a scale of Average or Below, Good, Very Good, and Excellent.122 Categories included Business Management, Quality of Work, Health and Safety, and Cost Performance, without any references to human rights or ethical conduct. However, one of these contracts rates excellent initiative in performance as that which does not require “prodding and surveillance” by the government.123 Government surveillance should always be required; no private security contractor should be operating without oversight. The other two (both later U.S. contracts) revealed the most extensive use of performance benchmarks, specifying separate evaluation of Performance Objectives, Measures, and Standards as well as defined performance standards for each service contracted to the PSC.124 Ultimately, the U.S. needs to establish common regulations regarding the inclusion of extensive

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122 Contracts A (2005), C (2003), and D (2005).
accountability benchmarks, as the UN Model Contract and its reference to UN’s Standard Operation Procedures suggests that the UN has done.\textsuperscript{125}

\textit{Unsatisfactory consequences for misconduct and breach of contract}

The corrective action plans in most U.S. contracts focus on the removal of any individual committing a conduct violation, as does the UN Model Contract. Most contracts authorize the contracting agency to direct the contractor to remove or replace any personnel not complying with the contract or standards of conduct. Many of the U.S. contracts also specify that any misuse of weapons should be punishable by removing that individual from the contract, placing them on administrative leave, or reassigning them to a task that does not require armed authorization. The DOD Handbook also recommends individual consequences upon an employee’s failure to comply with laws, contractual obligations, or violations of the Use of Force policy. Individual misconduct consequences do not foster forceful enough deterrence for the contracting company, as stronger measures or sanctions against the PSC for poor performance or human rights infringements may motivate tighter and more effective monitoring and evaluation of personnel and operations on the part of the contractor.

Provisions for the termination of the contract require severe misconduct. Most contracts restrict the grounds for termination to conflicts of interest or in compliance with the FAR rules, Termination for Convenience of the Government and Termination (Cost-Reimbursement), which simply permit the government to terminate a contract. Although the latest contract (2007) does authorize termination based on failure to meet performance standards or conform with contract requirements and failure to inform employees of their rights regarding union membership, dues,

\textsuperscript{125} While the UN Model Contract does not elaborate on the direction application of the Standard Operations Procedures to private security contracts, the Standard Operating Procedures as an institution-wide initiative focus on accountability, monitoring and evaluation, and improve outcomes. Access them here: https://www.unsystem.org/content/standard-operating-procedures-countries-wishing-adopt-delivering-one-approach
and fees, this is the only examined contract to provide such protections. Although operational circumstances can complicate termination and contractor withdrawal, termination provisions in all contracts related to misconduct and even human right standards could at least more powerfully dissuade and prevent poor behavior.

**Failure to Reference Legislative Human Rights Protections in U.S. Contracts**

U.S. contracts noticeably lacked human rights protection and references to applicable national or international laws related to human rights (see Appendix 9 for a list of relevant human rights legislation and regulations addressed by these contracts). Of these human rights policies, only the Prohibition of segregated facilities, Equal Opportunity, Affirmative Action for Workers with Disabilities, and Workers’ Compensation Insurance were mentioned in a majority of contracts. Private security contracts inherently present risk, and therefore require additional precaution, especially in relation to human rights. However, only three contracts referenced the Fair Labor Standards Act and Service Contract Act, while only two included the Child Labor-Cooperation with Authorities and Remedies regulation. While some of these contracts predate certain rules, this alone does not account for omitted legislative protections. This is not the case with the aforementioned Child Labor regulation, as the rule predates at least two contracts, although it does apply to the Combatting Trafficking in Person law (passed in 2006 and present only in the 2007 contract). However, these two rules both offer fundamental human rights protections directly relevant to private security services and contracts and must be included in future contracts.

U.S. contracts would be strengthened with explicit reference to and mandated adherence of legal human rights protections. These human rights protections should apply to all contracts,

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126 Failure to meet performance standards (FAR 52.249-8), Notification of Employee Rights Concerning Payment of Union Dues or Fees (52.222-39; 2004), Failure to meet performance standards (FAR 52.249-8)
given provisions that direct the contractor to comply with all U.S laws and host country policies. However, private security contracts are different in nature than other general procurement contracts and thus may necessitate more extensive and explicit human rights protections than other contracts. Additionally, many international human rights protections are enshrined in international treaties that may not be legally binding in every case. The UN Model Contract defines ‘Applicable International, National, and Local Laws” to includes all international law, treaties, conventions and custom, national and local statutes, laws, rules, etc., applicable to the performance of services, including international human rights law, international humanitarian law, and international criminal law. It explicitly protects against child labor, citing the rights set forth in the Convention on the Rights of the Child. Specifying applicable international conventions or treaties, domestic human rights law, or international human rights initiatives could strengthen protections in these contracts and promote better contractor behavior.

**Limited Risk Assessment in U.S. Contracts**

Most U.S. contracts did not include references to any required due diligence procedures or risk assessments. Only two contracts included any indication that the award determination considered past performance evaluations, and only two others required an Operational Security Plan. All required screening and vetting of contractor personnel, although the screening requirements, degree of government control over the hiring process, and information required to be submitted to government Contracting Officers on personnel and these vetting outcomes varies widely between contracts. While most require all necessary licenses, permits, insurance coverage, and authorization, the contracts showed no other meaningful risk assessment and mitigation measures.

The UN Model Contract more effectively addresses risk mitigation. The Contract mandated risk assessments and accreditation to the International Code of Conduct (ICOC) and
compliance with the International Code of Conduct Association (ICOCA). It also requires contractor inspections and examinations prior to launching the performance of contracted services, including investigation of all “risks, contingencies, and any other circumstances which may influence or affect the Contractor’s performance of the Services” and verification of compliance with all applicable international, national, and local laws. UN risk assessment procedures will be discussed in further detail in Part IV.

127 The ICOCA is an international Multi-Stakeholder Initiative (MSI) working to regulate PSCs. Read more here: https://icoca.ch
PART III

Findings from U.S. and UN Policies addressing Private Security Procurement

Various U.S. and UN policies and guidelines regarding private security contracting reflect the shortcomings in the U.S. contracts, revealing ineffective contract oversight and risk mitigation procedures. The UN procurement and private security guidelines examined here include the UN Security Management System’s Security Policy Manual (last reviewed 2017), which includes chapters devoted specifically to risk assessment in private security contracts, and Guidelines on the Use of Armed Security Services from Private Security Companies (2012). These findings are based on the Commission on Wartime Contracting’s Final Report (2011), the Gansler Commission’s Report on Army Expeditionary Contracting (2007), and the DOD Handbook for Armed Private Security Companies in Contingency Operations (2010). The focus on these documents stems from the nature of U.S. regulations governing private security contracts, given the importance of agency-specific instructions and directives as well as application of various legislative provisions not designed for or targeted at private security contracts in particular.

U.S. and UN policy documents reveal a lack of effective contract management, including monitoring, evaluation, and penalty measures, and the U.S. exhibits inadequate attention to risk assessment and mitigation procedures. These documents do not provide convincing evidence that the UN more responsibly manages private security contracts. Although there are minor differences in monitoring mechanisms between the U.S. and UN, there are no significant differences in post-award policies relating to oversight measures and accountability. While the efficacy of enforcing responsible contracting policies and human rights protections depends upon the level of implementation, certain UN guidelines suggest that the UN may institute slightly stronger post-award human rights protections and accountability measures relative to the U.S.
This would enable the UN to better monitor contractor performance and identify misconduct, however no conclusions can be drawn without data on the implementation and adaption of these policies by each UN agency (given the governance structure of the UN). Ultimately, private security contracting as a field still requires better oversight mechanisms.

These policies present meaningful differences in how the UN handles risk, including risk assessments, risk reduction procedures, and Use of Force policies. U.S. documents fail to establish any meaningful risk analysis, most importantly including any required risk mitigation measures or standards addressing inappropriate levels of elevated risk. The UN’s risk policy will be discussed in more depth in Part IV.

**Weak Contract Management**

*U.S. and UN agencies need stronger and more robust oversight procedures*

U.S. guidelines and regulations have not provided adequate monitoring and evaluation mechanisms in order to hold private contractors accountable or prevent awarding contracts to PSCs with poor performance records. The U.S. Commission on Wartime Contracting (CWC) found “serious deficiencies” in property handling by private security contractors in Afghanistan, which ineffective agency monitoring failed to identify and correct. The Gansler Commission even uncovered some cases where agencies did not even know whether the contractor had performed at all. Governments cannot rely exclusively on contractors for management and oversight jobs. While contractors should be overseeing their personnel and the company’s work product, and contracts should continue to include these provisions, they should be accompanied by mandated government supervision. Agencies lack well-defined roles and responsibilities as they relate to oversight of private security contractors, as well as deployed staff to monitor contractor performance in the field. More effective contract management tools would strengthen private security outcomes.
These policies reveal a lack of interagency coordination in the U.S. As the U.S. expands private security contracting in several different agencies, interagency coordination becomes critical. Data from Part I showing the increase in private security contracting by the State Department makes such guidance even more necessary. See Appendix 10 for similar increases in other federal agencies private security spending. However, the U.S. lacks common protocols related to the sharing of resources and responsibilities between departments as well as an office to coordinate management of these types of contracts. Interagency guidance should apply to all federal agencies and aim to deliver greater control and accountability. This requires incorporating lessons learned in past private security contracting operations, including provisions related to oversight and monitoring, and clearly identifying agency roles, responsibilities, and risk-mitigation strategies. Furthermore, aligning agency organizational structures and authorities as they relate to procurement would foster coordination. Additionally, as various agencies develop new regulations and directives regarding private security contracting, other agencies should begin adopting these policies applying procurement procedures to a greater number of private security contracts.

Although the DOD Handbook for Armed PSCs still lacks important oversight capabilities and requirements, it demonstrates progress in contracting policies since the examined contracts. It clarifies the responsibilities of government contracting personnel, extensively assigning management tasks to the Joint Force Chief (JFC), different Joint Force Staff Sections, the Chief of Mission (COM), Contracting Officer Representatives (CORs), Contracting Officers (KOs), and the Defense Management Contract Agency (DCMA). More importantly, it specifies how these responsibilities interact. For example, it directs KOs and CORs to monitor contract compliance, including supervision of day-to-day compliance with the contract and all applicable

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128 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
laws and regulations, and assigns them the sole authority to officially review and comment on such performance. Additionally, in response to poor contractor performance in Iraq and Afghanistan, DCMA consequently must incorporate “trafficking in persons” instructions and contract-specific training, established Quality Assurance Surveillance Plans (QASP), armed PSC audit checklists, and the inclusion of lessons-learned into new contracts, among other measures. Furthermore, the Handbook increases government oversight of armed contractor personnel through tracking in a centralized system. These measures should increase the U.S. government’s ability to oversee contracts and enforce certain standards of contractor behavior, but they must be incorporated into binding policy across agencies to actually improve accountability. There is not yet sufficient evidence to conclude if policy makers have codified these guidelines in relevant regulations or if agencies emulate them in practice, and they only apply to armed contractors rather than to all private security contractors. Ultimately, these changes do not fundamentally alter the DOD (or U.S.) approach to monitoring contractors.

UN policies reveal similar accountability measures. The UN Security Management System (UNSMS) Operation Manual requires the Contractor to hold its employees accountable for any violations of the UN standards of conduct and to refer their staff to criminal prosecution in the case that the violation constitutes a criminal offense under the laws of the host country. It is unclear to what extent such operations must be monitored by UN staff. Without any UN inspection, contractors are unlikely to adequately hold their employees liable for any misbehavior or failure to adhere to UN standards. UN guidelines do specify the need for clear accountability and responsibility frameworks that align with international standards and human rights law, operational standards, and the “highest degree” of oversight. These guidelines,

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129 The DOD Handbook requires combatant commander (CCDR) to register and account for all armed PSC personnel under various contracts using the SPOT system, where a centrally controlled deployment center registers and tracks personnel. DOD-wide use of SPOT should be factored into planning and integration for armed PSC support; the tool also possesses several features to facilitate individual contract management.
however, do not follow this with more detail nor define the ‘highest degree’ of oversight by delineating procedure. No evidence suggests that the organization’s policies and practices have been scrutinized to the same extent as U.S. regulations and agency follow-through (which the Gansler Commission and CWC both investigated) and thus prohibit any conclusion on whether the UN exhibits better contract management in practice.

However, if performed as outlined, UN oversight measures would likely be slightly more effective than similar attempts by the U.S. because the UN mandates regular reviews and some direct on-site monitoring. When the UN hires a PSC to provide armed security services, the most senior security professional tied to the operation must ensure the completion of on-site PSC inspection and a Monthly Performance Review. The Monthly Review should include an assessment of all submitted incidence reports, all reports on the PSC’s use of force, convoy protection reports marked High Risk, training programs and records, individual personnel performance records, and operation support documents (including Threat Assessments and Risk Analysis). Furthermore, the UN requires a Daily Operations Review that includes on-site inspections and assigns responsibility to specific personnel to ensure these are completed. The UNSMS guidance on armed PSCs specifies that the Daily Operations Review must include inspection of the handling and storage of firearms and ammunition, conduct of PSC personnel, and response to actual situations arising during shift. It must also explore any concerns raised by those receiving PSC services, although it does not create any grievance platform to receive these concerns nor mandate its contractors do. Specifying that daily and monthly inspections must consider risk, incoming threats, and the use of force increases the chances that the UN will identify any misconduct or human rights violations in time to correct them. The UNSMS Manual also establishes performance indicators, creating shared expectations between the UN and the Contractor and setting a basis for the mandated reviews and assessments. Furthermore, the UN
policies show a clear delineation of responsibility in assigning the Monthly Review and Daily Operations Review to the senior-most DSS official while allocating oversight of the contractor’s adherence to the contract terms to the Contracting Officer. The UN also has a systematic tool in place – the Safety and Security Incident Reporting System (SSRIS) – to report incidents and inform on threats. While the DOD Handbook similarly requires incident reports, there is not the same institutional structure in place for this.

Insufficient capacity within U.S. federal agencies to manage contracts

More rigorous contract provisions do not translate into better human rights and performance protections without adequate resources to enforce such provisions. UN documents do not reveal insight into the adequacy of the UN’s contract management capacity; therefore, the following section only applies to U.S. contracting capacity. Contract management resources have not grown at nearly the same pace as private security contracting, and consequently, the government lacks sufficient contracting personnel. Federal agencies and investigations recorded these deficiencies during the Iraq and Afghanistan conflicts, with little documented improvement since then. With private security contracting rapidly expanding, government agencies were forced to bear responsibilities – from new missions to expansion of existing ones – that they were not prepared to handle. For example, the CWC found a significant backlog in the Defense Contract Audit Agency (DCAA), with $558 billion in unaudited contracts. Without an increase in staffing, DCAA reported that this backlog will only “continue to grow virtually unchecked.” As discussed in Part II, contracts simply authorize government reviews, like audits, without mandating them; the DCAA’s backlog shows that without such requirements and sufficient capacity, federal agencies will not perform these reviews. The Defense Contract

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130 The DOD Handbook (2010) does also delineate oversight responsibility, but is the only U.S. document to do so.
132 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
Management Agency (DCMA) cannot support operational contract management for expeditionary operations and has only been moderately engaged in managing contacts in the field. Additionally, U.S. agencies were unable to properly close out contracts or record all contractor performance assessments, increasing the risk of awarding contracts to poor performing contractors. Especially given U.S. reliance on the same contracting companies for contracts year-to-year, this information could help prevent contractor misconduct in the early stages of the contract award process.

Actions to augment these capabilities should target training. Policies revealed insufficient training regarding the translation of requirements into contractual statements of need, which forms the basis of these contracts. Furthermore, current training fails to orient staff to fast-paced demands and operations, as well as more complex contracts and services. The Gansler Commission found the experience and training of contracting officers in the Army to be significantly less than that in the Air Force and concluded that Army officers do not have the requisite skills and training. Better training programs in security contracting could decrease inconsistencies in management programs and contract administration.

As the U.S. comes default to private security contractors, not only agencies but even the contracts must designate more resources and personnel to contract management and oversight functions. This includes the assignment of responsibilities, management structures, integrated audit and investigative capabilities, and established contracting processes at every stage. Federal agencies should also mandate and certify the use of database information when agencies making sourcing, suspension, and debarment decisions. These measures should also enable agencies to

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134 Army contracting officers only have an average of 3.5 years of experience compared with 13.5 years in the Air Force. Out of nine contracting officers for the Army, three achieved Level I, Basic or Entry, Certification, another three were awarded Level II certification, and only three were awarded Advanced or Senior Certification, Level III. This is compared with contracting officers for the Air Force, who all possess Level III Advanced certification.
135 Findings in this paragraph are based on the Gansler Commission and CWC Reports.
stop hiring temporary personnel to fill staffing gaps. Limited government capacity exacerbates problems resulting from other poor contracting practices – including the extension of contracted activities into areas prohibited by law, policy, or regulation – by increasing and introducing risk. Limited capacity can also impede other U.S. operations, or even disrupt agencies’ abilities to perform certain core functions. Lastly, as focused on by the U.S. government, it can lead to significant waste, fraud, and abuse.

**U.S. and UN policies lack forceful disciplinary procedures**

In policy, contracting agencies do not ensure effective use of penalty provisions in contracts. In the case of the U.S., agencies also do not ensure effective implementation in practice. The examined documents do not provide evidence of harsh consequences for misconduct or contract violations, reflecting the lack of forceful disciplinary measures present in the examined contracts (as discussed in Part II). U.S. and UN policies similarly permit the suspension or modification of any authorization of security personnel, as well as resulting administrative or disciplinary action from an investigation. Additionally, the CWC found that U.S. officials often do not adequately document determinations or justifications when deciding not to pursue a recommended suspension or debarment. The efficacy of these measures cannot be determined from the UN manuals and policies. Although there is a limit to the ability to apply full-scale suspension and debarment in contingency environments, alternatives such as banning contractors from participating in marketplace competition for other contracts should become standard practice if more immediate and severe punishments threaten ongoing operations. Contracts should develop penalty procedures that instruct government agencies to enact stricter

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136 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."

137 The Gansler Commission on Army Acquisition and Program Management in Expeditionary Operations, "Urgent Reform Required: Army Expeditionary Contracting."

138 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
penalties while providing alternative interim procedures if necessary. This should be done in a way so as not to allow contractors an easier way out, but to direct Contracting Officers on how to proceed in varying situations. Solutions to this include mandatory suspension for contractors indicted on contract related charges, with regulations about written rationales and interim penalty procedures if the situation prevents such a suspension.

Stronger government enforcement fosters more forceful deterrence. When agencies fail to inflict penalties on underperforming contractors, those provisions embedded in contracts lose the strength of their threat. Given jurisdictional complications and the difficulty in using legal recourse to hold contractors accountable, it is even more important to effectively discourage any misbehavior or underperformance and punish such violations using the contract. Enforcement of laws and contract terms sets a precedent of enforcement, reaping significant long-term benefits in contractor performance as the government identifies and sanctions poor contractors sooner and therefore decreases government expenditure on contractor punishment. As stated in the DOD’s Handbook for armed private security contractors, the “principal vehicle for the commander to exercise control is the contract.” Certain laws (those of the host country, the U.S., or international law) can provide some leverage, but ultimately, the strength of the contract dictates the strength of contractor adherence and performance.

Inadequate Risk Assessment and Mitigation by U.S. Agencies

Use of private security contractors increases risk

U.S. governmental bodies recognize contracting private security increases risk, especially in contingency operations or for armed contractors. These risks include contractor, military, and civilian safety and casualties; operational risks to achieve mission objectives; political risks; and financial risks such as waste, fraud, and abuse. Political risks include reduced government capacity to carry out these jobs as well as the gradual transfer of control of knowledge as well as
defensive, diplomatic, and development activities from the government to PSCs. Equally important to government capacity and operation performance risks are those related to the human rights of contracted workers and local populations surrounding private security operations. For example, the influx of large amounts of money and high rates of local employment by U.S. contractors threatens the stability of certain host countries’ economies and contractor withdrawal can leave local workers vulnerable to various insurgent groups or other threatening influences. Various factors impact the level of risk, including the host country and conflict location, as well as the stage of the operation, type of activity, proximity to a combat zone or hostile threat, and quality of government oversight.¹³⁹ Operations and contract services also pose greater risk when within a host country with weak rule of law and subject to weak legal accountability. Greater risk increases the need for effective risk assessment and management processes.

*U.S. agencies do not effectively assess and manage risk before awarding contracts*

Resulting policies fail to address this augmented risk. The U.S. does not conduct contract decisions and management with appropriate knowledge and awareness of the potential risks. The U.S. lacks certain mechanisms described in UN policy regarding extensive pre-award risk analyses and mitigation procedures. Few U.S. documents mention risk assessment procedures, or do so in a cursory manner without developing or mandating in-depth review. The few that did mention a need to address risk did not differentiate between appropriate and inappropriate levels of risk. Lastly, the U.S. does not make contracting decisions based, at least in part, on estimated risk levels. Past PSC surveys fail to capture risk, as do pricing plans.¹⁴⁰

The U.S. should look to the UN for guidance here, which mandates that the decision to used armed security services be based on a Security Risk Assessment (SRA). Risk analyses

¹⁴⁰Examined U.S. Contracts, Part II
should drive decisions in contract practices. This pre-award assessment should determine the
threats and level of risk facing contractor personnel and the operation, as well as outline required
measures to lower those risks. The CWC suggested that the U.S. weigh the likelihood of the
occurrence of a threat against its impact on the operation or mission, which would be in line with
UN procedures that aim to reduce both likelihood of an adverse event as well as that event’s
impact. If the assessment indicates a need for privately armed security, in order to minimize risk
and the unnecessary use of force, contracts should start with only the lowest number and lowest
caliber of approved firearms and gradually increase these until meeting the needs of the

A certain standard of risk procedure must apply to every private security contract. Although – as reported by the CWC – risk management can be difficult to evaluate, and these
procedures should therefore be judgmental, iterative, and probabilistic (rather than a mechanical
application of rules), this does not negate the need for standards and rules regarding risk analysis.
For example, mandating that private security personnel carry distinctive badges, or wear
uniforms identifying them as separate from government military personnel, could help reduce
risk by decreasing the likelihood combatants engage PSC personnel in direct hostilities thinking
they were armed military.\footnote{UN guidelines direct this but there is no evidence that U.S. agencies do}

Some measures that should be subjective could still benefit from
more extensive instruction, such as determinations on using private security for a specific task
based on risk assessments. Ultimately, however, agencies should modify or cancel contracts– or
perform certain tasks internally, using government personnel – if they exceed an acceptable level
of risk, as defined by the risk procedure.

Even with this need for risk plans written into a few policies, U.S. agencies did not carry
out proper risk assessment procedures in practice. Without internal performance reviews, no
conclusions can be drawn on the extent to which the UN abides by these procedures in practice. The U.S. government as a whole has certain risk assessment procedures in place that could be applied to private security contracts, such as the Army’s Composite Risk Management plan or guidance described in DOD Instructions or the Office of Federal Procurement Policy, which define inherently governmental functions and offer evaluation criteria and risk mitigation strategies. Institutionalizing one risk assessment plan required to apply to private security contracts would not only increase the consideration and mitigation of risk in the contract process, but also address risks inherent in and sometimes unique to private security contracts.

*Wider scope of contracted services increases risk in U.S. contracts*

Most U.S. agencies do not effectively assess risk in order to contract appropriate services. While the range of services assigned to PSCs has been expanding in practice, the written standard for contracted services has remained unchanged. U.S. policy stipulates that ‘inherently governmental’ services cannot be legally contracted. Not only is this definition subjective, ambiguous, and often insufficient to appropriately limit contracted services, but most U.S. contracting agencies during the Iraq and Afghanistan conflicts also automatically assumed that any service not considered ‘inherently governmental’ was appropriate for private security contractors.143 Furthermore, the U.S. has not developed or implemented controls defining acceptable risk.

Policymakers should revisit this ‘inherently governmental’ benchmark for private security services and implement stricter standards for appropriate contractor tasks – especially for armed, contingency, and expeditionary operations, which often pose higher risks. The U.S. government should revise the standard to provide better guidance, including decisions on

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143 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
whether contracting for non-governmental function is appropriate or wise, given the circumstance. Baseline consideration of operational, political, financial, and human rights risk should determine whether or not to contract out a certain function to PSCs. This may include phasing out the use of private security contractors for specific functions. However, despite the need for more limiting contract tasks, agencies still need to understand that this definition should be malleable and subject to operation-specific risk. Contracting personnel currently bear no responsibility for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change, including consideration of geographic, temporal, and organizational proximity to armed conflict.\textsuperscript{144} Better oversight mechanisms will also enable contracting personnel to respond to these changing factors. Ultimately, each contract award must include risk assessments and reflect consideration for risk mitigation procedures, and these risk analyses must consider the acceptability of contracting certain services.

\textit{Stronger Use of Force policies in the UN than the U.S.}

The U.S. inadequately regulates contractual and internal use of force policies. As part of risk mitigation procedures, contracting governments should establish effective and comprehensive use of force procedures. However, few U.S. documents emphasize Use of Force policies or acknowledge their importance. The DOD Handbook for Armed Contractors (2010) was the only examined policy to do so. It requires armed PSCs to be compliant not only with Joint Force Commander and Host Nation Requirements, but also to incorporate the International Peace Operations Association (IPOA) and the Montreux Document recommendations into their contracts.\textsuperscript{145} While the agency’s inclusion of these standards and U.S.’s recognition of them mark an important step in the evolution of PSC regulation, such use of force provisions will

\textsuperscript{144} Ibid.
\textsuperscript{145} The DOD Handbook predates the ICOC.
likely not be impactful when approached with this attitude. These guidelines lack effective enforcement mechanisms and the DOD characterizes them as a set of “reality goals.”

The UN more thoroughly regulates the use of force. The UN outlines very clear essential criteria for the use of force: the force is appropriate and proportional to the threat, and the minimum force required to counter the threat; the force is necessary (given available information at the time); and there is no other reasonable alternative. The UN further calls for use of force policies in private security contracts that are consistent with all relevant national host country laws and the UN Use of Force Policy, as defined by the UN Security Policy Manual. UN documents also set standards around the PSC’s own Use of Force Policy, which cannot be more restrictive than the UN’s Force Policy and must comply with the International Code of Conduct for Private Security Service Providers (ICOC). The PSC must have firearms management procedures and a weapons manual that are compliant with all applicable national and international laws, the UN Weapons Manual, and the ICOC. Additionally, the UN requires armed PSCs to be a member of the ICOC and possess valid and current licenses to provide armed security services as defined by the Montreux Document. These standards better protect against unlawful or unnecessary use of force.

While the DOD Handbook outlines the Rules of Force, similar UN standards appear significantly stricter. The DOD Handbook conceptualizes the Rules of Force as the right to self-defense and authorization to protect personnel from a hostile act or overt hostility indicating an imminent attack. Similar to the UN use of force criteria, the DOD specifies that the use of force must be proportional to the threat and based on known facts. Both the DOD and the UN further specify the circumstances under which armed personnel are authorized to use deadly force. While the DOD permits the use of deadly force in cases of self-defense or to combat fatal threats

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146 "Handbook for Armed Private Security Contractors in Contingency Operations ". 
to civilians, as well as the defense of facilities and persons or coalition-approved property as specified in the contract, the UN only authorizes the use of deadly force to defend oneself or other UN personnel from “imminent threat of death or serious bodily injury.” The UN clearly states that “no other reasonable alternative” justifies the use of deadly force. While the UN recognizes that the use of force is sometimes unavoidable and certain situations call for judgment and discretion in making an impromptu decision about using force, U.S. policies elaborate on this point and draw out the subjective and instantaneous nature of this decision. For example, right below the title, ‘Rules for the Use of Force by Contracted Security in Iraq,’ the DOD’s standard reads (in bold, uppercase lettering) “NOTHING IN THESE RULES LIMITS YOUR INHERENT RIGHT TO TAKE ACTION NECESSARY TO DEFEND YOURSELF.” UN guidelines mention it more briefly, seemingly as an aspect of extenuating circumstances rather than standard protocol.
Part IV

Differing Approaches to Private Security Contracting

The UN takes a different approach to private security contracting than the U.S. UN contracting guidelines and policies reveal greater caution in using private security, through extensive approval and risk assessment processes determining the necessity of using private security before awarding any contracts; processes not replicated in U.S. policy and procedure. Instead, the U.S. appears to have grown private security contracting to be a core competence and critical part of a growing percentage of operations, without the necessary attention to risk. While this research cannot comment on the UN’s use of outlined processes or attitude towards using PSCs in practice, there is no evidence that the UN more responsibly contracts private security post-award than the U.S., as the examined UN documents do not confirm any significant differences in accountability mechanisms. However, the UN’s more cautious approach likely leads to better contracting outcomes by mitigating risk and imposing greater limits on the scope of contracted services.

Private Security Contracting as a Core Competency of U.S. Operations

Many U.S. agencies have embedded private security contracting in the way they operate. Not only have these agencies contracted an increasing number and value of private security services, but they have also elevated the prominence of private security and the centrality of contractors to the operation. The CWC characterized the U.S. as being “over-reliant” on private security contractors, given current resources and capabilities. By their definition, ‘over-reliant’ means: a) extending to roles that laws or regulation require government personnel to perform, b) creating unreasonable risks, c) hindering agencies’ ability to self-perform core capabilities, and d) overwhelming the government’s ability to effectively manage and monitor contractors. The Gansler Commission found that all of the U.S. Military Services use contractors to provide
essential services. The Iraq and Afghanistan conflicts were the first time that the U.S. depended so heavily on PSCs for security in hostile environments, and in 2007, the number of contract employees in Iraq and Afghanistan surpassed the number of military personnel. The workload, tempo, and scope of contracted services increased, and contracts became more complex as service contracts overtook hardware contracts. U.S. contract award data shows a stable spending pattern on service contracts, with only about 10% or less of contract spending going to hardware contracts each year since 2008, as seen in Appendix 11 and 12. In 2010, the DOD released that as U.S. missions grow in numbers and complexity, so too do armed private security operations. Contractors’ proximity to armed combat also increases as their criticality to missions increases, making it more likely that they would become engaged direct hostilities in and raising the risk of improper or unethical conduct.

It has become clear that the U.S. will continue to depend upon private security contractors. Going forward, contracts can be expected to compose a significant share of the ‘total force.’ Additionally, this strong reliance on private contractors for services such as professional and technical expertise has shifted the balance of knowledge. Thus, the government has lost a significant amount of its “mission-essential organic capability,” which makes it not only more difficult to enforce accountability, but also more difficult (and realistically unlikely) for the U.S. to terminate their reliance on contractors for these services. As the Under Secretary of Defense for Acquisition, Technology, and Logistics testified, “we’re simply not going to war without contractors.” Given that federal agencies have internalized the use of PSCs, the best path forward is to ensure that the government procures these services responsibly and promotes

147 The Gansler Commission on Army Acquisition and Program Management in Expeditionary Operations, "Urgent Reform Required: Army Expeditionary Contracting."
149 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
150 Ibid.
positive contractor performance; performance that does not come at the cost of any group or individual’s human rights.

Quantitative Evidence

Stable spending patterns on riskier private security services further suggest that the U.S. is unlikely to back away from this heavy reliance on PSCs. Increases in private security spending appear independent from overall budget spending decisions and consistently consist of riskier type one security services.

Trends in private security spending appear independent from total budget fluctuations. As evidenced in the graphs below, private security spending remains a relatively percentage of the total DOD budget, with the exception of the dramatic increase seen in FY 2018. While there is significantly greater variation with State spending, most years show a steady increase in the percentage of private security spending (excepting FYs 2011, 2012, and 2018). Although FY 2018 records a relative decrease from FY 2017, it still shows a relatively high percentage of private security spending compared with earlier years. Appendix 13 for shows the DOD’s annual spending on private security services as a percentage of the agency’s annual procurement budget. Appendix 14 and 15 further demonstrate distinct spending patterns for the DOD and State. Private security spending increased several years despite decreases in DOD and State annual budgets, and the DOD’s annual procurement budget. The only year private security spending in the State Department slightly decreased was between FYs 14 and 15, despite several State Department budget reductions. This stability suggests private security contracting can be expected to continue at significant rates, irrespective of budget fluctuations or political turnovers.
U.S. agencies consistently spend significantly more on type one private security services. As discussed in the Introduction, Singer created a model differentiating private security services based on their proximity to direct hostilities. Thus, as the closest to armed combat or active threats, type one private security services often pose greater risk than type two or type three.
Data from the contract award databases used in Part I shows that both the U.S. and UN spend almost 70% or more each year on type one security services (see Appendix 16 and 17 for yearly spending on types one, two, and three security services by the U.S. and UN.).
UN Appears More Cautious in Contracting Private Security Services than the U.S.

Comprehensive UN Approval and Risk Management Processes

The UN outlines an extensive approval process in order to justify the use of private security services. While the UN does have different responsibilities than the U.S., as evidenced by their opening policy statements specifying the host government’s primary responsibility to provide security protection, the UN’s procedures and embedded attitude suggest a very different approach to contracting private security services than the U.S. The UN Security Manual chapter on PSCs discusses the approval process to contract private security extensively than any U.S. policy documents. The procedures in place ensure that UN organizations only award contractors’ jobs that contain an appropriate level of risk and no alternative state or force could perform. The UN only permits the use of armed security services when there is no possible, adequate, and appropriate alternative from the host government, member states, or internal UN system resources. Furthermore, the UN specifies that the use of PSCs should be limited to “an exceptional basis” when “threat conditions and programme need warrant it.” The UN guidelines devote significantly more space to the process of determining the appropriateness of using PSCs, information on risks, threats, risk assessments, risk mitigation measures, etc. than the U.S. and discuss these processes in much more depth, with entire chapters devoted to risk management and mitigation.

The UN’s risk assessment policy appears to be significantly more developed than that of the U.S. First, the UN mandates that certain criteria be met before private armed security services can be considered. UN staff must establish the level of program criticality for the activity necessitating armed PSCs. On top of a Security Risk Assessment, the most senior security official must determine any potential negative impacts of contracting private security; this

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includes taking into account the global and local use of PSCs, including the host country and the local community’s acceptance of PSCs and the local history of any negative incident involving PSCs or armed security services. It is important to note that the U.S., at no point in any examined guideline or policy, makes reference to the local community or local history, especially in regard to introducing private security in the area. UN staff must also explain why private security would be better placed to provide protection than any other security service. Once UN officials approve and justify the use of PSCs, they must submit an approval request to the Under-Secretary-General for Safety and Security; the request includes the aforementioned Security Risk Assessment, any potential adverse impacts, and the recommendation to use private security over other alternatives. Only upon receiving approval from the Under-Secretary-General can armed security services be contracted. UN policy further dictates that this full approval process be repeated at each contract renewal, which includes a new assessment of alternative provision sources.

The UN Security Policy Manual clearly delineates procedure and responsibility through the Security Risk Management (SRM) process. The SRM provides a structured approach to identifying and measuring threats in order to then identify an appropriate response by implementing a framework to ensure sufficient risk reduction prior to the start of any private security award. The SRM includes mechanisms such as a Framework of Accountability and risk matrix and scale, used to evaluate both the likelihood and impact of potential adverse events. The various steps of the progress are clearly outlined, from the situational analysis and threat assessment to implementing the SRM to determining acceptable risk and reviewing the implementation of mitigation measures. The Manual breaks down the recommendation and authorization process, using a flowchart to very clearly indicate each step and official whose approval is required. These SRMs form the basis upon which decisions regarding private security
at the UN should theoretically be made. The UN recognizes risk to be inherent in contracting private security; the key difference is that the UN seeks to reduce that risk as much as possible – even failing to award private security contracts if the risk fails to fall below an acceptable level.

*Culture of Responsibility*

UN documents reveal an approach that not only sets certain procedures in place, but also establishes a different culture within the UN. For example, these manuals delve into the goals of the UN, which differ from those the U.S. guidelines suggest. Most U.S. goals revolve around cost-effectiveness and mission success, whereas UN goals include ensuring safety and protecting and respecting “the value and integrity” of human life. The UN describes decreasing threat levels and SRM as “essential to achieving the United Nations goals.” Additionally, the UN guidelines precede post-award management plans by employing language such as “in circumstances where a UNSMS organization determines that armed security services from a private security company are required…,” which the U.S. does not replicate to the same extent. Furthermore, the UN reiterates certain imperatives throughout their security manuals, from a shared responsibility to ensure safety and security to an understanding of the surrounding threat environment and usage of basic security principles.

**Responsible Contracting within the U.S. Requires a Shift in Approach and Attitude**

In contrast to the UN, the U.S. does little to address the additional risk of using private security. The CWC reports that the decision to contract private security should be “based on a strategic understanding of the functions being performed [and] a determination of the appropriateness of the use of contractors.” However, U.S. policies place very little emphasis on determining if using private security is appropriate and approving private security contracting. In particular, U.S. regulations fail to address the *decision* to use private security contractors and contain few references to mandated risk analyses or adequate risk mitigation measures. The U.S.
focuses primarily on oversight mechanisms and pricing, with little attention to risk mitigation.

Even the DOD Handbook, written in response to private security incidents and published in 2010, focuses on oversight mechanisms and post-contract management without adopting sufficient pre-award risk mitigation measures.

Agencies must conceptualize private security contracting as core capability rather than a support function. The government’s ad hoc response to private security contractors is insufficient in the face of an institutionalized practice. At the time the government examined their private security contracting practices in the late 2000s, U.S. staff and personnel failed to understand the reliance on and impact of contractors. Agencies treat private security contracting as an “operational and institutional side issue,” yet in many cases, private security contractors have been essential to the agency’s operation. The Gansler Commission found that contract management jobs were not only under-staffed or under-trained, but more importantly under-valued. It described the culture as one that “does not sufficiently value or recognize the importance of contracting, contract management, and contractors in expeditionary operations.”

Private security contractors more often operate in contingency or expeditionary environments than traditional contractors, and as discussed earlier, spending is more concentrated in service contracts than hardware contracts (despite management emphasis on systems, i.e., hardware). This requires different management techniques and capabilities in order to effectively contract such services. This requires change at a fundamental level, beginning with efforts by the relevant leadership and in every agency.

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152 The Gansler Commission on Army Acquisition and Program Management in Expeditionary Operations, "Urgent Reform Required: Army Expeditionary Contracting."
153 Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
154 The Gansler Commission on Army Acquisition and Program Management in Expeditionary Operations, "Urgent Reform Required: Army Expeditionary Contracting."
155 See Appendix 11 and 12.
As the U.S. institutionalizes the use of private security, agencies need to simultaneously institutionalize effective oversight mechanisms and human rights protections. The U.S. needs to elevate the role of private security contracting in U.S. operations, especially in contingency or expeditionary operations, where the use of private security poses increased risk. This includes addressing personnel capabilities through education and training programs on the critical role of private security contracting and agency organization, restructuring agencies in order to award the contracting and acquisition communities greater authority and elevate the importance of these contract award and management functions. Full involvement of senior leadership makes reforms on this larger scale possible.\(^{156}\) This concept is illustrated in the case of the Iraq Status of Forces Agreement between the U.S. and Iraq, which mandated a specific military withdrawal from Iraq; however, there was no similar measure for extracting contractors.\(^{157}\) Future Status of Forces Agreements, or any such document or policy, should include contractors and direct U.S. use of contractors in the same way it directs U.S. military. Such a culture shift will hopefully promote greater consideration of private security contractors at every level of U.S. operations, beyond just the contract award process.

\(^{156}\) As per the CWC, effective leaders provide attention, focus, visibility, motivation, and energy to the process of improvement and to the daily work of delivering results. They reward success, correct failure, and punish misconduct. Changes in agency structures and practices affect culture and behavior, but cannot have deep and lasting impact without the full involvement of senior leadership.

\(^{157}\) Commission on Wartime Contracting in Iraq and Afghanistan, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks."
Conclusion

The U.S. and UN report significant growth in private security contracting. The last two decades have seen a dramatic rise in spending on private security services, yet regulation both in the U.S. and at the UN has failed to progress and keep pace with reliance on contractors. U.S. private security contracts and the UN Model Contract reveal ineffective accountability measures, which rely too heavily on reporting mechanisms and contractor self-supervision, and inadequate consequences for misconduct or contract breaches. U.S. contracts do not establish performance benchmarks or cite existing legislative human rights protections. Further evaluation of U.S. and UN policy documents pertaining to private security similarly reveal weak contract management and suggest a need for stronger and more robust oversight procedures, more forceful disciplinary procedures, and in the U.S., greater government capacity.

Ultimately, the UN exhibits a more cautious approach to private security contracting. While several U.S. agencies have embraced private security contracting and have established private security contracting as a core competency of their operations, the UN approaches the use of PSCs with more discretion and consideration. While the UN documents a comprehensive approval and risk management process, U.S. agencies fail to adequately assess and mitigate risk. They lack strict use of force policies and do not foster the same culture of responsibility that is apparent in the UN.

This study provides evidence that U.S. and UN reliance on PSCs overtakes any normative debate around using PSCs. Instead, the international dialogue must focus on responsible contracting policies that will hold contractors accountable and prevent human rights violations. Evidence from this study indicating private security contractors employed by the U.S. and the UN often operate riskier contract services only serves to further illuminate this need for

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158 See Literature Review
better contracting policies as they relate to risk, accountability, and human rights. Several initiatives, such as the Montreux Document or International Code of Conduct Association, have demonstrated leadership in this regard. Governments like the U.S. must continue developing and refining private security regulations and contracting procedures with particular attention to human rights objectives in order to effectively foster better human rights outcomes.

In order to do this and maximize the return from oversight and contract management reforms, U.S. federal agencies must accept contracting – especially private security contracting – as a core function. This requires more than re-focusing on industry regulation, as this study reveals that the attention on private security regulations garnered during and immediately following the Iraq and Afghanistan conflicts in the U.S. proved insufficient to promote the change ultimately needed to protect human rights in these contracts. This reform requires a shift in the approach and attitude towards contracting. This does not mean a shift towards an attitude against contracting, but one that merely recognizes the risk of PSCs to human rights and exercises the corresponding caution when contracting with these companies.

Furthermore, it suggests a need for greater leadership and effective regulation by international initiatives. This study did not find evidence that the UN employs significantly more advanced and responsible post-contract award contracting policies than the U.S, despite the UN’s more cautious approach and procedure to contract award determination. Historically, the U.S. has had the largest impact on the private security industry because of its large purchasing power and resulting domination of the industry. However, as other players emerge as key stakeholders in the industry and international legal human rights protections and regulatory structures develop, a platform for international initiatives such as the Montreux Document or multi-stakeholder initiatives like the International Code of Conduct Association (ICOCA) could

159 Avant, "Regulating PMSC: Governance Dynamics and Regulation in the Global Private Security Market.", 14.
be created and utilized in new, more impactful ways. Although these initiatives thus far have been relatively ineffective at governing PSCs, neither the U.S. nor the UN are currently positioned to lead industry regulation. Especially as the UN embraces private security, transitioning from its past as a leader of international efforts against mercenaries and PSCs, international organizations need to step up and take the lead in steering the international community and governments towards better oversight and management of private security contractors, in order to ensure that they respect human rights. This also requires that national governments and the UN provide the space for these initiatives and lend them authority.
Limitations and Future Research

Limitations

The greatest limitation of the study stems from the difficulty of obtaining good data on PSCs and organizing it in a way that facilitates meaningful analysis. Private security firms are, by definition, private. They operate with a high degree of secrecy, not only because of the need for operational secrecy and privacy to protect their market share, but also because most PSCs employ former military personnel accustomed to operating in secrecy. The rapid expansion of these firms outstrips normal mechanisms of oversight, and most government transparency rules – notably the Freedom of Information Act – exempt PSCs. The explosion of security contracting would be difficult to track even with qualified personnel and the adequate legal bases to do so. Additionally, as stated in Part I, private security contracting within both the U.S. and UN proves hard to track. This lack of transparency inhibits more in-depth or category specific analysis. However, the government is unlikely to disclose this information for security reasons.

Within the U.S. and UN, agencies do not conform to one definition of security services or contract variables. The UN Annual Statistical Report on Procurement and individual UN agencies change their definitions of Peace and Security goods and services from year to year, further decreasing clarity of contracting spending and making an accurate understanding of security contracting hard to obtain. For example, the total procurement spending of the UN Peace and Security sector fell by $21m from 2016 to 2017, or 37.1%, which the UN attributes to the UNPD recording $228m less procurement in this sector due to a change in the way it reported Security and Personal Safety Services in 2017. The discrepancies between procurement posted by different UN agencies show that many of the public records detailing the awarded contracts

are incomplete. This paper operates on the assumption that any service related to security has
been properly categorized as such.

The categories that do exist are vague, with little public explanation of how the
government defines each category and what services would fall into such a category. The U.S.
provides vague definitions of these procurement categories that limit public knowledge about the
specific goods and services included in these contracts. ‘National Security’ procurement
comprises “government establishments of the Armed Forces, including the National Guard,
primarily engaged in national security and related activities,” while ‘International Affairs’
similarly includes “establishments of U.S. and foreign governments primarily engaged in
international affairs and programs relating to other nations and peoples.” The only information
about firms attributed to ‘Security Guards and Patrol Services’ is that they provide guard and
patrol services, while ‘Security Systems Services except Locksmiths’ firms focus on procuring
and managing security alarm systems, and remote monitoring of electronic security systems.162

Future Research

Future research should be undertaken by these contracting governments or institutions
themselves, given that they alone have access to the most complete and accurate data regarding
private security contracting policies and practices. Government regulation cannot hope to
effectively protect human rights without a basic understanding of the nature and scope of private
security contracting. In particular, UN policy documents do not reveal how effectively agencies
implement these mechanisms in practice. Policy reform – such as the tabled International
Convention addressing PSCs – must be based, at least in part, on the implementation of existing
policy in order to not just develop more effective policy, but to ultimately foster more
responsible contracting practices. Additionally, researchers and civil society organizations

possess limited insight into the relationships between PSCs and governments. Especially considering the fluidity between government officials and contractor personnel, investigating how policies could set boundaries between staff and outline authority may have meaningful repercussions for contractor performance.

Beyond overall spending patterns, research should investigate the correlative and, if possible, causal link between private security spending and political or conflict situations. Research illuminating how spending patterns on private security within the UN correlates with ongoing missions, or in the U.S. during times of peace versus war, could promote better understanding of why these institutions contract private security and their approach to doing so.

Future research should also explore potential collaborations. Creating spaces and platforms that foster collaboration and harness collective knowledge has propelled accountability in the business and human rights space as a whole; thus, further research exploring the ability for national governments like the U.S. to learn from inter-governmental institutions like the UN or initiatives such as the ICOCA could have large implications. Research should examine the ways in which private security contracting regulations may be adaptable between governments or international organizations and make recommendations for ways in which these bodies can work together to improve industry performance and accountability.
References


Geneva Centre for the Democratic Control of Armed Forces and International Committee of the Red Cross, 2016.


Avant, Deborah. "Regulating PMSC: Governance Dynamics and Regulation in the Global Private Security Market."


Appendix

Appendix 1

Spending by UNOPS and UNPD on Peace and Security Services by Year (USDm)
Appendix 2

Spending by UNOPS and UNPD on Peace and Security Services as a Percentage of Total UN Spending on Peace and Security
The large percent increases in 2008 could either be due to the dramatic increase of private security contractors reported to have flooded into Iraq and Afghanistan at the time, but could also represent the U.S.’s transition towards public reporting of procurement awards and a lagging response to transparency legislation mandating the U.S. disclose all contract data.
### Appendix 5 – NDAA Provisions

<table>
<thead>
<tr>
<th>Year</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>Sec 332: Authorizes Secretary of Defense or Secretary of a military department to contract security-guard functions for military installations or facilities in the U.S. if, without the contract, members of the Armed Forces would be used to perform those security-guard functions, and the hired security is adequately trained and supervised. [emphasis added]</td>
</tr>
</tbody>
</table>
| 2005 | Sec 1205: Directs Secretary of Defense to publish guidance on DoD’s management of contractor personnel supporting deployed forces  
Sec 1206: Requires Secretary of Defense to submit a report to Congress on contractors supporting deployed forces and reconstruction efforts in Iraq; particularly, the report must address chain of command oversight of contractors in the field, potential disciplinary procedures or criminal sanctions to levy on contractors in the event of misconduct in Iraq, serious incidents implicating contractors, and contractor fatalities. |
| 2008 | Section 841: Establishes Commission on Wartime Contracting (CWC)  
Section 862: Requires DoS and DoD to establish minimum procedures for selection, accountability, training, and conduct |
<table>
<thead>
<tr>
<th>Year</th>
<th>Action</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Sections 831 and 832: Revised Section 862 of NDAA FY 08 on regulations for armed contractors in combat operations, including by expanding the requirement for standard regulations to apply to contractors in significant military operations not at the level of combat.</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>Sec 1206: Requires Secretary of Defense to submit a report to Congress on contractors supporting deployed forces and reconstruction efforts in Iraq; particularly, the report must address chain of command oversight of contractors in the field, potential disciplinary procedures or criminal sanctions to levy on contractors in the event of misconduct in Iraq, serious incidents implicating contractors, and contractor fatalities [emphasis added].</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>Sec 817: Mandates Secretary of Defense to develop a management and organizational policy for contingency contracting during combat post-conflict operations</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>Sec 853 and 854(^\text{164}): Amend NDAA FY 08 to tighten reporting requirements for contractors of criminal allegations by or against contractor personnel</td>
<td></td>
</tr>
</tbody>
</table>

\(^{164}\) Do not apply to CIA contracts
<table>
<thead>
<tr>
<th>Year</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Sec 1219: Special Inspector General for Afghanistan Reconstruction asked to issue recommendations on contractor oversight and to report on responsibility of military and security contractors in Afghan civilian deaths.</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Sec 805: Requires Defense Contract Audit Agency to publicly report its findings</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Sec 1531: Guidelines on U.S. oversight, use, and contracting of APPF forces for 2013</td>
<td></td>
</tr>
</tbody>
</table>

**Standards**

<table>
<thead>
<tr>
<th>Year</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td></td>
<td>“McCain Amendment”: prohibits the cruel, inhuman, and degrading treatment of persons under custody or control of the United States</td>
</tr>
<tr>
<td>2011</td>
<td></td>
<td>Section 833: Requires the Secretary of Defense to “(1) established criteria for defining standard practices for the performance of private security functions…and (2) establish criteria for weapons training programs for contractors performing private security functions.”</td>
</tr>
<tr>
<td></td>
<td>Title VXII Sec 1702-1708: Strengthens and expands trafficking protections in government contracting</td>
<td></td>
</tr>
<tr>
<td>2018</td>
<td>Sec 852: Secretary of Defense should encourage the use of standard guidelines within DoD for the evaluation of requirements for service contracts (standards = DoD</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>Sec 1206</td>
<td>Requires Secretary of Defense to submit a report to Congress on contractors supporting deployed forces and reconstruction efforts in Iraq; particularly, the report must address chain of command oversight of contractors in the field, potential disciplinary procedures or criminal sanctions to levy on contractors in the event of misconduct in Iraq, serious incidents implicating contractors, and contractor fatalities [emphasis added].</td>
</tr>
<tr>
<td>2007</td>
<td>Sec 552</td>
<td>Extends military jurisdiction of Uniform Code of Military Justice (UCMJ) to time of “declared war on a contingency operation;” previously, the UCMJ only covered civilians serving with the Armed Forces in the field during a “time of war.”</td>
</tr>
<tr>
<td>2008</td>
<td>Section 861</td>
<td>Requires Secretaries of Defense and State, and Administrator of USAID, to enter into a memorandum of understanding on contracts in Iraq or Afghanistan, specifically related to the delineation of investigative responsibility and referral of possible violations of Uniform Code of Military Justice or Military Extraterritorial Jurisdiction Act</td>
</tr>
<tr>
<td>Year</td>
<td>Section</td>
<td>Description</td>
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<tr>
<td>2010</td>
<td>Sec 823</td>
<td>DoD authorized to deny contracts to companies found to threaten the health and safety of U.S. government employees</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Risk Assessment and Contractor Selection Criteria</strong></td>
</tr>
<tr>
<td>2012</td>
<td>Sec 806</td>
<td>Requires information on contractor performance to be included in past performance databases, which will be used to make contract award decisions</td>
</tr>
<tr>
<td>2013</td>
<td>Sec 846</td>
<td>Requires risk assessment for contractor performance in operational or contingency plans and risk mitigation plan for operational and political risk associated with contractor performance of critical functions in support of operation. Critical function is defined to include private security functions. Risk assessments will include goals and objectives of the operation, safety of military, civilian, and contractor personnel, managerial control of the government over the operation. Risk mitigation plans will include actions to reduce or mitigate such risk, implementation plan for risk mitigation measures that includes measurable milestones, continuing process for identifying and addressing risk.</td>
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<tr>
<td></td>
<td>Sec 853</td>
<td>Requires data on contractor performance to be included in past performance databases used for source selection decisions</td>
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## Appendix 6 – Human Rights Contract Criteria

<table>
<thead>
<tr>
<th>Contract Terms</th>
<th>Selection Criteria</th>
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<tbody>
<tr>
<td>• Date Signed</td>
<td>• Vetting of Private Security Personnel</td>
</tr>
<tr>
<td>• Duration of Contract</td>
<td>• Personnel Training Requirements</td>
</tr>
<tr>
<td>• Award Amount</td>
<td>• Evaluation based on Past Contractor Performance</td>
</tr>
<tr>
<td>• Federal Agency</td>
<td>• Internal Policies (Company)</td>
</tr>
<tr>
<td>• Type of Contract</td>
<td>• Insurance</td>
</tr>
<tr>
<td>• Armed Authorization</td>
<td>• Due Diligence or Risk Assessment</td>
</tr>
<tr>
<td>• Security Clearance</td>
<td>• Authorization and Licensing Requirements</td>
</tr>
<tr>
<td>• Geographic Concentration of Contract Services</td>
<td>• Required Accreditation of PSC</td>
</tr>
<tr>
<td></td>
<td>• Lawful Acquisition and Use of Equipment</td>
</tr>
<tr>
<td></td>
<td>• Cost Effectiveness</td>
</tr>
</tbody>
</table>
| Determination of Services | • Scope of Contracted Services  
| | • Defined Boundaries between PSC Personnel and Military Personnel  
| | o Uniforms  
| | • Cost Specificity  
| | • Program Description Specificity  
| | • Service Description Specificity  
| | • Use of Subcontractors  
| | • Pricing and Duration:  
| | o Financial Rewards or Penalties and Incentives  
| | o Opportunities to Compete for Additional Contracts  
| | o Securities or Bonds for Contractual Performance  
| | • Quality Assurance and Risk Management  
| | • Compliance with National or International Laws  
| | • Transparency  
| Accountability | • Grievance Mechanism  
| | • Government Authority over Contractors and Contractor Personnel |
• Jurisdiction
  o Corporate Criminal Responsibility
  o Criminal Jurisdiction

• Monitoring and Evaluation
  o Mandated Review Procedures
  o Monitoring Mechanisms
    ▪ Audits
    ▪ Contractor Supervision
    ▪ Direct On-Site Monitoring
    ▪ Monitoring of Payment
    ▪ Reporting
    ▪ Third-Party Monitoring
  o Performance Benchmarks
  o Record Keeping

• Penalties
  o Debarment of Contractor
  o Financial Sanctions
  o Misconduct Procedures
  o Provisions for Civil Liability
  o Referral to Investigative Authorities
<table>
<thead>
<tr>
<th>Additional Nodes for Analysis of U.S. and UN Policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Increasing Prominence of Private Security Contracting</td>
</tr>
<tr>
<td>• Process of Approval re: Usage of PSCs</td>
</tr>
<tr>
<td>• Problems with Private Security Contracting</td>
</tr>
<tr>
<td>o Bottom Line</td>
</tr>
<tr>
<td>o Capacity</td>
</tr>
<tr>
<td>o Impede Agency Ability</td>
</tr>
<tr>
<td>o Increased Risk</td>
</tr>
<tr>
<td>o Oversight and Contract Management</td>
</tr>
<tr>
<td>• Recommendations</td>
</tr>
<tr>
<td>o Contract Management</td>
</tr>
<tr>
<td>o Culture Shift</td>
</tr>
<tr>
<td>o Leadership</td>
</tr>
<tr>
<td>o Increase Quality of Government Contracting Personnel and Training</td>
</tr>
<tr>
<td>o Resources and Capacity</td>
</tr>
<tr>
<td>o Interagency Coordination</td>
</tr>
<tr>
<td>o Legislation</td>
</tr>
</tbody>
</table>

| o Removal of Individual Wrongdoer |
| o Termination of Contract |
Selection Criteria: Several key factors must be considered by government contracting officials prior to and upon determination of the award. Extensive requirements regarding the private security contractor, from vetting of personnel and past company performance to proper risk assessment and internal company policies, can impact service outcomes and meaningfully reduce risk in outsourcing security services.

Determination of Services: This relates to the level of specificity in contracts and the level at which assigned tasks and responsibilities were established. Greater contract specificity allows for governments to measure potential violations by a company against pre-determined conduct standards. Highly specifiable contracts will include defined parameters of services or products and objectives as well as performance metrics, defined expectations, and pre-specific punitive measures. Officials can use these as a basis with which to compare PSC performance to highlight deviations and, if necessary, invoke sanctions or other previously ordained measures.

Compliance: Contracts must establish standards for contract-compliant behavior. Most importantly, this includes defining clear benchmarks, in order to identify any contractor mis-performance, as well as specifying to which national or international laws the contractor must comply. In order to make companies responsible for any human rights violations or discourage future misconduct, the contract must establish basic human rights protections for the company to adhere to during contract performance.
Accountability: This section tracks requirements or use of any type of accountability mechanisms, which are crucial to ensuring contractor performance and holding contractors responsible for any misconduct. Effective accountability mechanisms including various monitoring and evaluation measures, from on-site monitoring to reporting, strong penalties for any contractual or legal violation, and established jurisdiction in the case of severe misconduct. The complex nature of private security contracting makes specifying the various oversight or disciplinary procedures applicable to the contractor and available to the government in the contract absolutely essential to promoting accountability.

The additional nodes for analysis of U.S. and UN policies were created based off of previously identified regulations and guidelines examined in this study, and thus represent common problems with private security contractors or recommendations made throughout the examined collection of documents.
# Appendix 7 – Information on Examined U.S Contracts

<table>
<thead>
<tr>
<th>Contract Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A</strong> Year: 2005</td>
</tr>
<tr>
<td>Company: Blackwater Lodge &amp; Training</td>
</tr>
<tr>
<td>U.S. Contracting Agency: State</td>
</tr>
<tr>
<td>Award Amount: Base Price of $646,000.00 per year</td>
</tr>
<tr>
<td>Type of Contract: Indefinite Delivery, Indefinite Quantity</td>
</tr>
<tr>
<td>Armed Authorization: Armed(^{167})</td>
</tr>
</tbody>
</table>

| **B** Year: 2007  |
| Company: ArmorGroup North America Inc. |
| U.S. Contracting Agency: State |
| Award Amount: $11,919,000.00 |
| Type of Contract: Indefinite Delivery, Indefinite Quantity |
| Armed Authorization: Armed |

| **C** Year: 2003  |
| Company: Brown & Root Services |
| U.S. Contracting Agency: DOD |
| Award Amount: Minimum Guarantee of $500,000.00; Maximum Award Amount of $7 billion |
| Type of Contract: Not specified |
| Armed Authorization: Armed |

| **D** Year: 2005  |

\(^{167}\) This indicates that the government authorizes the contractor and an unidentified number of personnel to use force in select circumstances and to carry weapons; it does not indicate the extent to which contractor personnel are armed or authorized to use force.
<table>
<thead>
<tr>
<th>Year</th>
<th>Company</th>
<th>U.S. Contracting Agency</th>
<th>Award Amount</th>
<th>Type of Contract</th>
<th>Armed Authorization</th>
</tr>
</thead>
<tbody>
<tr>
<td>E</td>
<td>2004</td>
<td>Garrett</td>
<td>State</td>
<td>Minimum Price will be set by Program Management Office task order proposal; Maximum of $1.2 billion</td>
<td>Not specified</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Company: Triple Canopy Inc.</td>
<td></td>
<td></td>
<td>Armed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>U.S. Contracting Agency: State</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Award Amount: Minimum Price will be set by Program Management Office task order proposal; Maximum of $1.2 billion</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type of Contract: Not specified</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Armed Authorization: Armed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F</td>
<td>2003</td>
<td>Garrett</td>
<td>State</td>
<td>$1,753,407,129.00</td>
<td>Combination Firm Fixed Price, Indefinite Delivery, Indefinite Quantity, Cost-Plus-Fixed-Fee type solicitation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Company: Joint Venture Partnership Agreement – PAE Government Services Inc. and Homeland Security Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>U.S. Contracting Agency: State</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Award Amount: $1,753,407,129.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type of Contract: Combination Firm Fixed Price, Indefinite Delivery, Indefinite Quantity, Cost-Plus-Fixed-Fee type solicitation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Armed Authorization: Armed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>2004</td>
<td>Garrett</td>
<td>State</td>
<td>Base of $500,000.00; Maximum of $50 million</td>
<td>Indefinite Delivery, Indefinite Quantity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Company: Northrop Grumman Information Technology</td>
<td></td>
<td></td>
<td>No authorization recorded</td>
</tr>
<tr>
<td></td>
<td></td>
<td>U.S. Contracting Agency: State</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Award Amount: Base of $500,000.00; Maximum of $50 million</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type of Contract: Indefinite Delivery, Indefinite Quantity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Armed Authorization: No authorization recorded</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

168 Various minimum and maximum award amounts specified based on the number of awards made for this contract for both Base Amount per award and Option 1, 2, 3, 4 Amounts per award (Base Minimum of $50,000.00 per award with $50,000.00 Minimum per Option; with one award, Base and Option Maximums of $1.2 billion; with two awards, Base and Option Maximums of $600 million; and with three awards, Base and Option Maximums of $400 million)

169 The government reserves the right to make multiple awards from this solicitation
<table>
<thead>
<tr>
<th>Year</th>
<th>Company</th>
<th>U.S. Contracting Agency</th>
<th>Award Amount</th>
<th>Type of Contract</th>
<th>Armed Authorization</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>DynCorp International LLC</td>
<td>State</td>
<td>Guaranteed Minimum of $5 million; Maximum of $100 million</td>
<td>Indefinite Delivery, Indefinite Quantity with fixed hourly rates</td>
<td>No authorization recorded</td>
</tr>
<tr>
<td>2004</td>
<td>Civilian Police International</td>
<td>State</td>
<td>$1,600,819,995.00</td>
<td>Combination Firm Fixed Price, Indefinite Delivery, Indefinite Quantity, Cost-Plus-Fixed-Fee type solicitation</td>
<td></td>
</tr>
</tbody>
</table>

170 Various minimum and maximum award amounts specified based on the number of awards made for this contract for both Base Amount per award and Option 1, 2, 3, 4 Amounts per award (Base Minimum of $50,000.00 per award with $50,000.00 Minimum per Option; with one award, Base and Option Maximums of $1.2 billion; with two awards, Base and Option Maximums of $600 million; and with three awards, Base and Option Maximums of $400 million)

171 The government reserves the right to make multiple awards from this solicitation

172 Various minimum and maximum award amounts specified based on the number of awards made for this contract for both Base Amount per award and Option 1, 2, 3, 4 Amounts per award (Base Minimum of $50,000.00 per award with $50,000.00 Minimum per Option; with one award, Base and Option Maximums of $1.2 billion; with two awards, Base and Option Maximums of $600 million; and with three awards, Base and Option Maximums of $400 million)

173 The government reserves the right to make multiple awards from this solicitation
### Appendix 8 – Reporting Requirements in U.S. Contracts

<table>
<thead>
<tr>
<th>U.S. Contract</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>A (2005)</td>
<td>• Weekly Status Report</td>
</tr>
<tr>
<td></td>
<td>• Monthly Total Contract Performance</td>
</tr>
<tr>
<td></td>
<td>• Six-month Performance Report</td>
</tr>
<tr>
<td></td>
<td>• Lessons Learned Report</td>
</tr>
<tr>
<td></td>
<td>• Adverse Information Report(^{174})</td>
</tr>
<tr>
<td></td>
<td>• Official Incident Report</td>
</tr>
</tbody>
</table>

\(^{174}\) Adverse Information Reports require the contractor to identify and describe any issue or incident that involves failure by any contractor personnel to satisfactorily complete their mission, or any action that would reflect negatively on the United States or the State Department.
| B (2007) | • Quarterly Inventory Report  
| | • Monthly Progress Report\textsuperscript{175}  
| | • Inspection Reports  
| | • Transition Progress Report  
| | • Weekly Summary Report  
| | • Quarterly Training Reports  
| | • Monthly Reports (includes Progress Report)  
| | • Surveillance Reports\textsuperscript{176}  
| C (2003) | • Written Accident Report and Accident Analysis  
| | • After Action Review (Lessons Learned)  
| | • Situation Reports (includes reporting on contract scope)  
| | • Monthly Progress Report  
| D (2005) | • Weekly Status Report  
| | • Monthly Total Contract Performance  

\textsuperscript{175} Almost every contract requires a Monthly Progress Report, which includes costs and labor hours and the performance of task orders, inspections results, difficulties or irregularities, resolution of problems, etc.

\textsuperscript{176} In the event that deficiencies are observed (nonperformance, substandard performance, tasks not performed according to specified frequency, etc.), the COR will immediately notify the Contractor of the deficiency and ensure the Contractor has an understanding of the deficiency. The COR will document all deficiencies, and provide written documentation to the Contractor. The preferred method to resolve deficiencies is to allow re-performance to correct the deficiencies. The Contractor will be provided with the opportunity to correct any deficiencies within 24 hours of deficiency notification (excluding holidays and weekends). In the event the deficiencies are not corrected in 24 hours from notification, the COR may have the work accomplished by other means. Consistent or repeated failure to meet these standards will require the Contractor to submit a Corrective Action Plan (CAP) to the COR. A CAP shall include, at a minimum, how the Contractor plans to correct the problem and the estimated date by which the problem shall be corrected. This shall serve as a road map for corrective action by the Contractor.
<table>
<thead>
<tr>
<th>Year</th>
<th>Reports</th>
</tr>
</thead>
</table>
| | • Lessons Learned Report  
| | • Quarterly Inventory Report  
| | • Adverse Information Report  
| | • Official Incident Report  
| | • Monthly Progress Report  
| F (2003) | None  
| H (2003) | • Interim Progress Reports specific to each Program/Task Order  
| | • Inspection Reports  
| | • Immediate Reporting of Security Incidents  
| | • Monthly Progress Report  
| J (2006) | • Daily, Weekly, & Monthly Reports to COR, including Incident Reports, Patrol Summary, and Exception Reports (e.g. failure to log checkpoint or complete route in time allotted)  
| K (2001) | • Exercise Reports  
| | • Event Lessons Learned Reports |
Appendix 9 – Human Rights Rules and Legislation in Examined Contracts

<table>
<thead>
<tr>
<th>Human Rights Legislation or Regulation</th>
<th>Contracts Referencing this Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Labor-Cooperation with Authorities and Remedies (52.222-19, 2004)</td>
<td>• A (2005)</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• D (2005)</td>
</tr>
<tr>
<td></td>
<td>• K (2001)</td>
</tr>
<tr>
<td>Approval of Wage Rates (52.222-16, 1998)</td>
<td>• K (2001)</td>
</tr>
<tr>
<td>Prohibition of Segregated Facilities (52.222-21, 1999)</td>
<td>• A (2005)</td>
</tr>
<tr>
<td></td>
<td>• C (2003)</td>
</tr>
<tr>
<td></td>
<td>• D (2005)</td>
</tr>
<tr>
<td></td>
<td>• G (2004)</td>
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<td></td>
<td>• I (2004)</td>
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<td>• K (2001)</td>
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<td></td>
<td>• C (2003)</td>
</tr>
<tr>
<td></td>
<td>• D (2005)</td>
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<tr>
<td></td>
<td>• E (2004)</td>
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<td></td>
<td>• F (2003)</td>
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<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------</td>
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<td>H (2003)</td>
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<tr>
<td></td>
<td>I (2004)</td>
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<tr>
<td></td>
<td>K (2001)</td>
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<td>K (2001)</td>
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<tr>
<td></td>
<td>D (2005)</td>
</tr>
<tr>
<td></td>
<td>K (2001)</td>
</tr>
<tr>
<td>Category</td>
<td>References</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
</tbody>
</table>
• B (2007)  
• C (2003)  
• D (2005)  
• E (2004)  
• G (2004)  
• H (2003)  
• I (2004)  
• J (2006) |
• K                                             |
| Combatting Trafficking in Persons (52.222-50, 2006)                    | • B (2007) |
| Notification of Employee Rights Concerning Payment of Union Dues or Fees (52.222-39, 2004) | • B (2007)  
• J (2006) |
Appendix 10 – Increases in Private Security Spending by U.S. Agency
Appendix 11

Sending on Service versus Hardware Contracts (USDm)

Appendix 12

Spending on Service versus Hardware Contracts as a Percentage of Total Private Security Spending
Appendix 13

Annual Spending on Private Security Services, as a Percentage of Annual Procurement Budget (DOD)
Appendix 14

Annual Budget, DOD (USD billions)

Annual Procurement Budget, DOD (USD billions)

Annual Private Security Spending, DOD (USD millions)
Appendix 15

Annual Budget, DOS (USD billions)

Annual Private Security Spending, DOS (USD millions)
Appendix 16

Spending on Private Security Services by Type (U.S.) (USDb)

Appendix 17

Spending on Public Order and Security Services versus Security and Safety Equipment by Year (UN)(USDm)

Appendix 18
Spending on Public Order and Security Services versus Security and Safety Equipment, by UN Agency

![Graph showing spending on Public Order and Security Services versus Security and Safety Equipment for different years (2009-2017). The graph includes data for UNOPS (USDm) and UNPD (USDm) agencies. The x-axis represents the years, and the y-axis represents the spending amounts in USDm. The bars indicate the spending for Public Order and Security Services (blue) and Security and Safety Equipment (red).]