

Is it the Navy or the Entire Department of Defense?

Written by Nick Sanders

Monday, 10 February 2014 00:00

You know, or ought to know, that one of our favorite themes here at the Apogee Consulting, Inc. blog is that government contractors are no more corrupt than any other business sector. Despite conventional wisdom, we assert that government contractors are no more corrupt than government employees, or military service people.

It takes two to tango, folks. Where you find contractor corruption, chances are there's corruption on the other side of the negotiating table as well.

In point of fact, any time you have a large population of individuals, you are going to see a rough bell curve of behavior, with ethically challenged people found outside the mean—and corrupt actors found out beyond the six sigma point. Yet despite piles of evidence to the contrary, auditors and investigators and politicians love to pick on the instances of government contractor wrongdoing, and seemingly ignore the instances of wrongdoing made by civil servants and military service people.

The seeming blindness extends to deployment of internal controls as well. Ask any public accountant about Sarbanes-Oxley controls or Dodd-Frank or the importance of business ethics and “tone at the top” and no doubt you'll get an earful. But ask any Inspector General or DCAA auditor about those topics, and you'll get a discussion about *contractors'* controls, and damn little about controls in place in the Federal government or in the military services. That's not to say those controls don't exist; of course they do—and there are people who think about them and work on them. But we assert that the focus of the Federal government's efforts to implement controls and evaluate their efficacy is outward facing and not internal facing. We assert the focus is aimed at contractors and not at employees of the Federal government.

But maybe that seeming blindness is clearing a little bit.

Recently, stories have emerged that Secretary of Defense Chuck Hagel is “deeply troubled” by the multitude of military scandals that have made the news in recent months. For example, [this article](#) at Defense News reported that Hagel thinks “there may be a ‘systemic’ ethics crisis inside the military.” The article reported—

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The sweeping concerns voiced by [the Pentagon spokesperson] come amid recent reports of service members and some high-ranking officers accused of cheating, fraud, drug use, alcohol abuse, gambling and sexual misconduct. Hagel appears to be expanding his concerns beyond the recent problems inside the Air Force's nuclear missile community. Missileers have been accused of cheating on tests, using drugs, and failing to properly maintain the nation's arsenal of 450 intercontinental ballistic missiles. ...

The Navy on Feb. 4 acknowledged a cheating scandal at its Nuclear Propulsion School in South Carolina, which so far has implicated at least 30 senior enlisted instructors accused of sharing answer sheets to nuclear qualification tests. Seemingly unrelated, the Army recently revealed that about 1,200 soldiers — including 200 officers — are implicated in a long-running scheme by National Guard recruiters to fraudulently collect nearly \$100 million in recruiting incentive payments.

With respect to that last sentence, readers may recall that we reported on it [right here](#). We stated—

So, what do we think about this latest evidence of corrupt behavior in our nation's armed forces?

Well, what we think is that the Army should have done what almost every savvy corporation does, when recruiting referral bonuses are being offered. It should have made the new recruit identify any individual who made the referral, or else check a box on a form that said 'nobody referred me.' That would have been a simple, inexpensive, effective control that would have acted to make this kind of 'wide-ranging' conspiracy a whole lot harder to execute.

Thus, we are on record (once again) as saying that the fixes to these corruption problems are simple, in the sense that every large corporation in America has similar issues and has deployed controls to detect and/or deter corrupt behavior. Do those controls always work? Of course not. But the corporations don't pretend the problem doesn't exist, and they work to combat it. Here's yet another example of how the DOD is years behind the private sector, where inexpensive and straightforward anti-corruption controls are being implemented and evaluated for efficacy every single day.

In a tradition that goes back at least to World War I, it's once again time for the DOD to borrow practices from the private sector.

And speaking of borrowing from the private sector, we were bemused to see a report over at [The New York Times](#), which dealt with *yet another*

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Navy scandal. The possible scandal involves Inchcape Shipping Services, a Dubai-based Navy contractor. According to a qui tam suit, “employees asserted that Inchcape had received discounts from subcontractors and then pocketed the difference instead of refunding it to the Navy.”

That suit, filed in 2010, led to Inchcape being suspended and at least one subpoena being issued. In 2011, Inchcape turned over billing records from as far back as 2002 to the Naval Criminal Investigative Service (NCIS). In 2012, Inchcape was ordered “to give investigators a copy of an internal company audit from 2008 into some of the questionable billings.”

Isn't it interesting that Inchcape, a company Headquartered in the UAE, would have performed its own audits, and would have retained them? But perhaps we digress....

What did NCIS and other DOD investigators/auditors do with the treasure trove of information provided by Inchcape. Well, apparently not very much. The NYT reported that Inchcape challenged its suspension in December, 2013, and that Judge Merow at the U.S. Court of Federal Claims was considering ordering that it be lifted, because (according to Judge Merow) “it did not appear that the Navy’s suspension office had ‘conducted any meaningful investigation’ of other documents ‘despite having had time to do so.’”

As our readers know all too well, that’s par for the course.

So what did the Navy do? According to the NYT—

Faced with the possibility that the judge might dismiss the suspension, records show, the Navy agreed to lift it in exchange for promises from the company to follow federal rules, refund overcharges, and hire independent monitors and auditors. ... the company has agreed to pay for an independent audit that could help the Justice Department determine how much it may have overcharged the government.

Let’s repeat that: “...the company has agreed to pay for an independent audit that could help the Justice Department determine how much it may have overcharged the government.”

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Apparently giving up on waiting for NCIS to complete its investigation, the DOJ told the contractor to *hire a private audit firm to conduct the government's investigation.*

That's ... *unusual*, to say the least.

And others apparently think so as well. The NYT reported—

Contracting experts said it was unusual for the government to turn to an outside auditor in this type of case, and some questioned whether an independent firm could do as thorough a job. ... 'To wait for the Navy to do a serious audit is like waiting for Godot,' said Charles Tiefer, a professor at the University of Baltimore School of Law and a former member of the federal Commission on Wartime Contracting in Iraq and Afghanistan. 'Considering that the Navy has sat on its hands for years, getting an accounting from a private firm is a sign of desperation.'

"A sign of desperation"?!?

One might reasonably think that the DOJ or the Navy might turn to DCAA to perform the kind of audit that would identify overbillings. Indeed, they may have done so, only to run up against the fact that DCAA cannot perform timely audits either.

Giving up on the accounting and audit resources of the Federal government, in a "sign of desperation," the parties have agreed to hire a private sector auditor and (presumably) to rely on its findings.

So this is what it's come down to ... this is the state of affairs in which both contractors and government stakeholders find themselves. The accounting and audit resources of the Department of Defense are worthless to evaluate whether or not a contractor overbilled the DOD.

How sad. We sincerely mean that. *How sad.*

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At a time when DOD leadership is—finally!—waking to the realization that it may have internal control weaknesses that would be unacceptable in a public company, at a time when the Pentagon's control environment and tone at the top are being questioned by many, at a time when the expertise of the nation's premier audit agency is needed the most ... DCAA is missing in action.

How sad.