

Outside View: Washington consultants and opaque Ukrainian government tenders

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WASHINGTON, March 28 (UPI) -- Foreign Agent Registration Act (Department of Justice) reporting shows that authoritarian Ukrainian Presidents Leonid Kuchma and Viktor Yanukovich have poured far more millions of U.S. dollars into Washington political consultants, lobbyists and lawyers than pro-Western opposition and ruling "orange" forces.

In addition to the on-going contract with Davis Manafort International since 2005, the Yanukovich administration and Party of Regions, Arnall Golden Gregory LLP and Tauzin Consultants LLC provide consultancy services to Party of Regions parliamentary deputy Petro Shpenov for the sum of \$40,000 per month.

In 2010, the government of Ukrainian Prime Minister Nikolai Azarov paid \$3 million for an international audit of the 2007-10 Tymoshenko government. The contract was given to Trout Cacheris, a law and lobbying firm, Akim Gump Strauss Hauer and Feld, an international law firm whose client list includes Ukrainian oligarch Rinat Akhmetov, and Kroll investigative agency. None of the three companies is professional auditors.

Vin Weber was awarded the endowment's Democracy Service Medal in recognition of his service as National Endowment for Democracy chairman (2001-09). Weber, one of U.S. presidential candidate Mitt Romney's top foreign-policy advisers, is a registered lobbyist for the European Centre for a Modern Ukraine.

This represents a clear contradiction, Weber, after promoting democracy for the first decade of this century, became a lobbyist for a government that is dismantling the democratic achievements of the Orange Revolution. Weber is a partner at Mercury/Clark and Weinstock, a company formed through a merger of the New York law firm Clark and Weinstock with Mercury Communications.

The ECFMU has additionally hired the Podesta Group to lobby in Washington. Tony Podesta, like Weber, is among the top lobbyists in the United States and is close to the Democratic Party and his brother, John Podesta, is a former member of President Bill Clinton's administration, is an advisor to President Barack Obama.

The ECFMU's U.S. Allies Project "seeks to inform the American government, opinion leaders, political decision makers and civil society, focusing on reforms being undertaken by Ukraine as part of its commitment to becoming a fully Western-facing democracy."

In 2012, U.S. law firm Skadden, Arps, Slate, Meagher and Flom LLP prepared a lengthy legal investigation of the Tymoshenko trial for \$1.25 million in a contract given without a tender. Skadden have been awarded a second contract by the Ukrainian government to report on expected European Court of Human Rights rulings on imprisoned Yulia Tymoshenko. The Skadden office in Washington, including head of the office Clifford (Mike) M. Naeve, was asked for comments on their Ukrainian contracts but they never returned the requests.

U.S. State Department spokeswoman Victoria Nuland responded to journalists' questions about the Skadden report by saying, "our concern is that Skadden Arps lawyers were obviously not going to find political motivation if they weren't looking for it."

The report also fails to consider the selective nature of the trials, those who were chosen for trials against Tymoshenko and her -- and former members of her government.

Nuland added, "Whomever -- whoever commissioned this study, whatever the mandate for the study was, it was incomplete and doesn't give an accurate picture."

Former U.S. Ambassador Steven Pifer also criticized the Ukrainian government for commissioning the report.

In February and July 2012, changes to tender legislation in Ukraine increased the possibilities of corruption by making government contracts opaque and not subject to tenders. Yanukovich and Azarov supported the changes despite widespread criticism from the opposition and anti-corruption non-governmental organizations, the World Bank and the European Union.

Human rights watchdog Freedom House reported that "The largest embezzlements in the country are associated with state procurement contracts" and "By the end of the year, the Accounts Chamber of Ukraine declared that state procurement had withdrawn into the shadows."

In 2012 the tender process was investigated by Forbes Ukraine magazine, which said it was be a morass of corruption. Three Donetsk loyalists -- Akhmetov, Yuriy Ivanyushchenko and Oleksandr Yanukovich (president's son) -- received the vast majority of last year's tenders.

Oleksii Khmara, president of the anti-corruption watchdog Transparency International Ukraine, wrote that: "For instance, in 2012 alone the Parliament of Ukraine approved eight bills that considerably changed public procurement regulations in Ukraine. There are a number of gradual exclusions from the tender law that governs over the whole system of state procurements. One of the primary changes was the exclusion of procurements at the expense of state or community-level enterprises, as well as business companies with the state share over 50 percent."

Baylor University Professor Serhiy Kudelia, a leading expert on Ukrainian politics said, "The entire tender process has for years been probably only second to the energy sector in the scale of rampant corruption that exists in this sector of the Ukrainian economy."

Kudelia added that "Changes in legislation has institutionalized this corrupt process by not requiring the need for tenders and contracts are awarded, as in the case of contracts given to Skadden law firm, at the whim of the government and without any transparent process."

The corrupt nature of Ukrainian government tenders raises concerns that a U.S. company is agreeing to contracts awarded in an opaque manner and therefore this could possibly come under the scrutiny of the Foreign Corrupt Practices Act. In addition, Kudelia points out that "When in power the opposition will have enough grounds to investigate opaque contracts given without tenders for signs of abuse of power."

Pro-regime political forces in Ukraine have always spent a lot more on political consultants and lobbyists in Washington than the democratic opposition. U.S. political consultants and lobbyists don't come cheap and the dividends are unclear.

A Washington policymaker with long-time experience working on Ukraine explained that "far more significant for developments in U.S.-Ukraine relations than the role of PR firms has been the political and human rights situation in Ukraine and the role of Congress, including the U.S. Helsinki Commission."

Why are authoritarian Ukrainian presidents and governments spending millions of dollars in Washington but not in Brussels? Ukraine's leaders fear the United States while looking at the European Union in a cynical manner not believing Brussels is serious about the values it claims to profess.

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